103

# WORLD BANK DISCLOSURE POLICY AND INSPECTION PANEL

Y 4.B 22/1:103-146

World Bank Disclosure Policy and In...

HEARING

BEFORE THE

SUBCOMMITTEE ON
INTERNATIONAL DEVELOPMENT, FINANCE, TRADE
AND MONETARY POLICY

OF THE

COMMITTEE ON BANKING, FINANCE AND
URBAN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

JUNE 21, 1994

Printed for the use of the Committee on Banking, Finance and Urban Affairs

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# WORLD BANK DISCLOSURE POLICY AND INSPECTION PANEL

TUESDAY, JUNE 21, 1994

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL DEVELOPMENT,
FINANCE, TRADE AND MONETARY POLICY,
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
*Washington, DC.*

The subcommittee met, pursuant to call, at 10 a.m., in room 2128, Rayburn House Office Building, Hon. Barney Frank [chairman of the subcommittee] presiding.

Present: Chairman Frank, Representatives Kennedy, Waters, Watt, Bereuter, Huffington, and Nussle.

Also present: Representative Wynn.

Chairman FRANK. The hearing of the Subcommittee on International Development, Finance, Trade and Monetary Policy will now begin.

This is an oversight hearing on the results of the efforts of the U.S. Treasury Department and others to persuade the World Bank to make changes, changes that I think are important in two respects.

First, intrinsically, they are logical developments that are important to the Bank if it is to perform its function well.

Second, they are important if we are to maintain within the country and the Congress representing the country support for continued appropriations for the Bank.

I think many people—and I include myself in this—face a real dilemma when we evaluate the Bank.

On the one hand, the work it is now doing, fostering economic development in the poorest parts of the world, is as important as anything that can be done. Alleviating poverty, promoting economic growth, dealing with the years and years of abuse and neglect and the misery in which so many people are condemned to live—no human task seems to me more important.

On the other hand, if the Bank and other institutions don't go about this in the right way, the support won't be there. And so we have been trying very hard, through our Treasury Department, to encourage the Bank to make some changes.

I want to be clear. The standard by which we measure them has to be a realistic one. One of the great problems with critics in the public policy area is that they are not as smart as judges at the Olympics. Judges at the Olympics, when they are judging gymnastics or diving, take into account the degree of difficulty. And critics sometimes do not do that.

When you are judging an institution which is trying to deal with thousands of years of problems in a very complex situation, the degree of difficulty of that task has to be taken into account. What the World Bank is undertaking is both morally very important and very difficult.

But that does not mean there are no criticisms at all. And particularly, I think when we talk about the kinds of things that many of us have focused on, we are not asking for miraculous results. We are asking for some basic procedural safeguards with regard to information policy and with regard to independent review that ought to be simply and easily implemented.

And I regret there appears to be on the part of the Bank resistance to these. I also think that some of the donor countries are making a mistake if they think they can present the American people with a choice, either put up all the money and shut up, or else. We may tragically find "or else" as the chosen alternative. I don't want to see that.

And the effort of this subcommittee is not to make such a choice but to avoid it having to be made. And that is the status in which we find ourselves.

I will now recognize the ranking minority Member.

Mr. BEREUTER. Thank you very much, Mr. Chairman. This is an important oversight hearing on the implementation to date by the World Bank on reforms that were adopted in August and September 1993, to have a much more open policy of disclosure of information and to set up an independent Inspection Panel.

I would say that one of the difficulties we have in assessing the progress of the World Bank and to some extent the other multilateral development banks is the fact that we have an information gap. The critique is often of efforts that began more than a decade ago and finally are finding their way into *Reader's Digest* and other publications that periodically like to run comments on the terrible abuses of the World Bank.

Many of the difficulties that we have seen in the implementation of the World Bank efforts have, in fact, been corrected. But others are there that need to be addressed, and I do think that the U.S. Congress—I know this is self-congratulatory—but I do think the U.S. Congress has had more impact upon reforming the multilateral development organizations, especially the World Bank, than any other entity on earth. In fact, it has been this subcommittee, in a bipartisan effort over the last decade, that has been the driving force in these reforms. It has been this subcommittee that has had the major impact. So I am pleased that we are continuing that oversight role.

I am particularly pleased to have our colleague, Congressman Kasich, here with us today. For several years, I think it is clear, he has had a very lively interest in the subject of reforming the World Bank, which has, as a result, contributed to greater awareness and, frankly, greater concern, too, among our colleagues on these issues. But it has also had the result already of more serious attention to progress in implementing reforms in the Bank itself. So I look forward to his testimony and the testimony of the Treasury Department and the witnesses from the environmental commu-

nity who have put a lot of time and effort into serious advocacy of meaningful reforms.

Thank you, Mr. Chairman.

Chairman FRANK. Thank you. The subcommittee has, I think, been able to have an impact in substantial part because we have functioned in this area in a totally nonpartisan way. I hope the people at the Bank and elsewhere who watch understand the depth of the consensus that we have here. It is a two-pronged approach which is supportive but also insistent on improvement. We have been able to hold together a bipartisan coalition to do that.

As Mr. Bereuter has said, one of those who has been a leader in focusing attention in this area, and it is an area that is not often at the top of people's agenda here, so I am very grateful to our colleague, Mr. Kasich, because he has, out of his concern that this very important job be done right, focused a lot of his energy and attention to this. And we are delighted to have him testify.

He is one of the first, for instance, in Congress, no one was more prompt than he in understanding the Wapenhans Report and the need for implementing it and for becoming an advocate of that. So we are delighted to have him testify before us.

Mr. Kasich.

## STATEMENT OF HON. JOHN R. KASICH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. KASICH. Thank you, Mr. Chairman, Mr. Bereuter.

I would like to commend you for holding this oversight hearing and for your work to reform the multilateral banks. Although there is still a long way to go, I am pleased that the World Bank appears to be moving toward greater accountability. And I underscore the word "appears." Much of what is now being discussed is consistent with proposals that I have worked on and have supported.

Mr. Chairman, many Americans have deep misgivings about U.S. foreign aid programs. With repeated reports of corruption, waste, and mismanagement, they understand that efforts to bring relief, prosperity, and security to impoverished peoples in other countries have gone seriously wrong. For this reason, I believe that Congress must move quickly to achieve meaningful reform.

Several years ago, former Representative John Miller and I decided to evaluate all of our foreign assistance programs. When John Miller left Congress, his able assistant, Wayne Struble, who sits behind me, who really was the driving force behind this effort at review, and I continued on the project and made it one of my top priorities with Wayne riding point on this effort.

Over the past several years, I have met with many thoughtful people who supported foreign assistance, but who were becoming increasingly frustrated and concerned about the ineffectiveness of our aid programs. These people included former bank employees, as well as individuals from the environmental, human rights, and development communities.

They told me about the Bank's many shortcomings. These shortcomings can be broken down into four areas: Environmental destruction. The best example, of course, is the destruction of the rain forest. These have been outlined in a *Time* magazine, April 1, 1991

article. Believe it or not, the World Bank was involved in a project that ended up destroying a significant portion of the rain forest.

And, of course, Sardar Sarovar, which is a dam project located in India, which has been an environmental disaster, it took an awful long time for the Bank to withdraw its support. This was outlined in a number of articles, including the *New York Times*, in a 1990 article, and just this Sunday in a *Washington Post* article.

The first problem we think, then, is environmental.

The second one is forced resettlement, a situation where projects have actually been funded, where projects have started and people found themselves without any place to live, and have been placed in a situation of experiencing forced resettlement.

Third, administrative costs of the Bank that were growing between 12 percent and 15 percent annually.

And finally, making loans that did not meet the Bank's own standards. The Wapenhans Report noted poor project design and inadequate management, poor implementation, and a culture that rewarded new loans rather than effective management of existing loans.

So, Mr. Chairman, I noted problems with environmental destruction, forced resettlement, skyrocketing administrative costs, and the fact that the Bank was more interested in making loans rather than figuring out whether the loans could perform.

Based on these discussions, the revelations in the Wapenhans Report and the Morse Report on the project in India did not come as a surprise. I became particularly concerned by the apparent inability to modify or terminate harmful projects early in the planning process before any harm was done.

Mr. Chairman, you may recall that during the markup of the President's fiscal year 1994 budget in the Budget Committee, I read from a *Time* magazine article titled "Good Intentions, Woeful Results." The article allowed that an ambitious environmental program at the World Bank ended up damaging the tropical rain forest that I referred to earlier. This, obviously, should not occur.

To address these problems, we worked with our colleague, Tom Ridge, a member of the full committee, in June 1992, to strengthen H.R. 3428. That bill authorized capital contributions for several banks. Mr. Ridge offered six amendments on our behalf.

We called, for example, on each bank to make available timely and useful information concerning projects, and to work with affected people in designing projects. We called for the development of strict environmental standards. And we sought to establish a truly independent body in the banks to perform oversight responsibilities.

Last year, as part of the Foreign Operations, Export Financing, and Related Programs Appropriations bill, Chris Shays, the famous partner in the Frank-Shays effort to try to increase burdensharing in the world, that famous Congressman, Chris Shays, and I, offered an amendment withholding funding for the World Bank. We took this step after meeting with former Bank employees who stated that this was the only way to get the Bank's attention concerning the need to reform. The fact that I am testifying before you today seems to indicate that our action, coupled with your actions, Mr. Chairman, have moved the issue.

As you know, the amendment came within six votes of passing. Because of our tough-minded approach, however, Treasury had the leverage to say to the Bank that the Congress was serious about reform. And I will say that the article on Sunday—and I don't know if you happened to see it—where you state "we will just have to start cutting off money," I think underscores the fact that the Treasury had better understand how serious we are about this, and the fact that we don't want talk, we want to have action, and the World Bank should understand that this funding is in jeopardy.

Much has changed at the Bank, fortunately, since the amendment was offered. First-class travel has been greatly restricted, and the Bank has moved to control its administrative costs. The Bank has adopted a new disclosure policy. They have established an independent Inspection Panel to address concerns about the Bank's policies and procedures.

Talking about the design, appraisal, and implementation of its operations—and I have got to commend the Bank for their good-faith effort—they have taken just the first step toward reform. Unfortunately, much more remains to be done.

It is one thing to announce a change in policy. It is another thing to actually implement needed reforms. Changing the culture and operations of a large institution will require the strong and continued commitment of Bank officials, officials at the Department of Treasury, and the Congress. It has been my experience, and probably yours as well, that these bureaucracies are resistant to change.

Probe International, a Canadian-based environmental group, has sent me material criticizing the early implementation of the new disclosure policy and the accountability of the independent Inspection Panel. In a May 17 letter, they indicated they are going to focus on these issues over the next year. I plan to follow their work very closely.

Mr. Chairman, I would like to make sure that you have full access to this information. As we get it, we will share it with you and Mr. Bereuter and the staff.

Likewise, I believe it is important that Congress create a process to monitor the implementation of the reforms. And, of course, this oversight hearing is critical. The reforms should not be taken as trivial procedures by the Bank. They must permit broad access to information by outside groups. The review panel must be truly independent. And both of these reforms must be implemented so that harmful projects, like the ones I already mentioned, could either be dropped or restructured early in the process.

I have been involved in several interrelated activities that should assist Congress in monitoring the reform process. During the debate on the 1995 Foreign Operations bill, I offered an amendment to fence off money. The money that was fenced off was the requested 1995 increases for IDA, the International Finance Corporation, and GEF. Until the problems with environmental destruction, forced resettlement, administrative cost, and noncompliance are corrected, I don't think we ought to provide the funding increases.

Under this amendment, you would then be in a position, the Banking Committee, to review this along with the Appropriations Committee.

And I think this was the one stick we had. We were trying to figure out how we would be able to keep their feet to the fire. And if, in fact, we fenced off money until you could have another review of the progress that is being made, I think it does mean there will be accountability, and if they are not doing what we think they ought to do, we could come in on a bipartisan basis.

I have asked the GAO to monitor the performance of the Bank and provide a snapshot assessing the implementation of the reforms. I am going to be meeting with Mr. Bowsher tomorrow to talk about this very issue.

I plan, Mr. Chairman, not only to ask him to take a look at the World Bank, but I am convinced that these foreign aid projects have become corporate welfare overseas, these large corporations wanting to get their snout in the trough where the public money is. And what happens is they are just simply interested in making profits and frankly not that interested in what the results are. And this is a terrible situation.

As you know, I have been—I know Mr. Bereuter, Mr. Kennedy, and Mr. Frank—you, Mr. Chairman, we have all been supporters of foreign aid. We believe it is an important part of U.S. foreign policy. But to consider the fact that we would send any money overseas that would be designed to simply allow some corporations to make profits, to literally disrupt activities and operations and people's ability to be successful in foreign countries, is not acceptable.

I have argued to many of the groups out there who have been strong proponents of foreign aid, including AIPAC, that we are going to undermine the ability to have true foreign aid policy. If we are going to be funding projects like we do through the World Bank, the Agency for International Development, they are just a story—the Agency for International Development, where they took money designed to help people in Rwanda—and I had been pointing this out before the tragedy—some of the AID workers took the money and built tennis courts in Rwanda, they built the courts east-west, but that doesn't work because in the morning when they were serving the ball the Sun got in their eyes, so they tore the courts down and built it north-south. These kind of programs just undermine our ability to build a good, strong consensus for foreign aid.

And I think, Mr. Chairman, this kind of a hearing is just so important. I think that with you and Mr. Bereuter, members of the Budget Committee, working together, and also these environmental and human rights groups—they are very important, because they are on this thing and they are looking, they are studying this stuff every day, and they are getting good information, they are sending it to us, it is a nonpartisan, bipartisan operation—we have got a chance to really strike a blow for those people who believe that it is proper to—and clearly right to help people overseas, but boy, it is absolutely wrong to send taxpayers' money overseas if it is going into the pockets of some corporation that is interested in making money, or going into nations where political leaders use it in a way that ultimately damages the lives of the people who live within those borders.

So, Mr. Chairman, I am very excited that we could take the time this morning to do this. I know you have got a chorus of witnesses from Treasury that indicates they are serious about this, and the environmental groups and the human rights groups. And maybe we could really change this bureaucracy.

But I would argue that if we—we, you and Mr. Bereuter and members of this subcommittee and the members of the Budget Committee—do not continue to threaten to eliminate this funding, we are not going to get the changes we want. With the pressure, I think it is possible that we could change the attitudes of these international bureaucrats.

Thank you for the opportunity to appear this morning, Mr. Chairman.

[The prepared statement of Mr. Kasich can be found in the appendix.]

Chairman FRANK. Thank you, Mr. Kasich. I have no questions. I appreciate your making clear what I think the situation is. If the international institutions respond appropriately, they will find themselves supported. If they don't, they will not.

I hope everybody understands, there is no great political push in their favor. What is in their favor is the willingness of the Members in this place, a greatly underestimated willingness in general, to be responsible and to do what we think is the right thing. So the institutions really are going to have to show that.

I would just add one note, because you talked about working in the future, given the turnover that takes place here, I probably will not be chairing this subcommittee next year, but I do plan to be on it, and I don't plan to be any less interested in this activity next year than I am this year. So if people thought they could outwait some of us, they are wrong.

And I think it is very useful to have Mr. Kasich here, a ranking member of the Budget Committee. We have a pretty broad consensus here. If anyone thinks this is somehow some temporary expression of interest, that individual is wrong. You are going to see a continuing thrust that crosses party and ideological lines.

Mr. Kennedy.

Mr. KENNEDY. I appreciate it, Mr. Chairman. I think you are to be commended for holding this hearing. And I think Mr. Kasich has done important work at bringing out some of the shortcomings of the institution.

I know that Mr. Kasich has in the past been very critical of the World Bank, and the other associated institutions, in addition to the IMF, as other members of this subcommittee have.

I am concerned from time to time—and my staff tells me, I am sorry I didn't hear all of your presentation, John, that you in fact did have some nice things to say about the institution as well—I get concerned from time to time that we—I remember the debate that we had in the Congress on the stimulus package early on, where it was brought out, I think there was a swimming pool spent by some CDBG funds. I don't know if it was in New Haven or someplace like that. This was identified as being one of the reasons for the downfall of the stimulus package. And I am concerned that we somehow can go through the multibillions of dollars that the World Bank and the IMF and others have utilized over the years

and find some outrageous examples of real ineptitude and terrible policy.

John, I think your work in bringing out some of the problems that have existed with the dam in India, I think the specific provisions of the staff appraisal reports and your followup in terms of the Morse Commission, your advocacy of a much greater role by the GAO, are all positive responses.

I am concerned that in the political atmosphere that exists today where we are cutting domestic programs, as you and I are aware, it becomes very easy to target any kind of foreign aid for significant budget cuts.

And I just want to point out that, in fact, I think I read through some of your past testimony in the *Congressional Record* on the way down this morning, and I am concerned that we end up sort of throwing out the baby with the bathwater.

Some of your statements in the past have been very, very tough on the institution, and I am, basically, someone who believes—at least maybe it was just in a fit of hyperbole on the House floor, my God, John isn't——

Mr. KASICH. Who, me?

Mr. KENNEDY. Your condemnation here is really quite something. Anyway, all I am pointing out to you is that this is an organization that has in fact done a great deal of good around the world over the course of the last 20 or 25 years. It has lifted a great many people out of poverty. It has not done it with anywhere near the oversight that it should have been. Your specific ideas are ones I agree with in terms of how to create some reforms within the institution.

But I do think that it should be said that this is overall an effort that first of all makes money for our country, and second, and perhaps most importantly, has done a great job at raising the overall level of economic activity throughout the world and has helped bring a great many people out of poverty.

So I just wanted to go on record as saying that I think these institutions are well worth supporting. I think we have got to get rid of the waste and the abuse that takes place, and some of the inadequacies in terms of the way they actually monitor existing programs.

But I do think that overall they have done an enormous amount of good and should be supported.

Mr. KASICH. Let me, if I might, Mr. Chairman, just make a comment about that. I get concerned too about when we mark up certain bills and people pick on items that—they ask you to draw a conclusion about something from one little tiny item. You know, I am convinced that if we had known that the CEOs of these S&Ls were flying around first class and eating at fancy restaurants, it would have gotten our attention a lot quicker than the fact that they all went down the drain.

And the reason is, Mr. Kennedy, when you talk to people about nonperforming loans, they say, "would you wake me up after you have finished that particular subject." But if you talk to them about eating in some fine restaurant in Boston or sitting in the owner's box for the Red Sox game, you have got their attention. They understand it.

The problem with the World Bank doesn't have anything to do, in my judgment, with the problem of first-class travel or administrative costs being 12 or 15 percent. I don't like that, but that is not a reason to throw it out.

The problem with it is that the World Bank has a portfolio of 37 percent nonperforming loans. And none of these countries ever get accused of having a nonperforming loan because what we do is we take foreign aid money from other operations and we give it to them and then they take that money so they can meet some obligations because the money is all fungible.

My problem is, with 37 percent nonperforming, they are not doing a good job of lending the money.

Mr. KENNEDY. But the fact is, having worked extensively throughout Third World countries before I came to the Congress, the fact is, John, these are not easy organizations and countries to work in. And they do fail. And they are in very tough economic straits.

And we have people on this subcommittee, as the chairman is well aware, that will attack the hell out of the IMF for being so stringent in terms of how the countries have to live up to certain kinds of conditions in order to pay back the loans that we do make.

Mr. KASICH. I am a supporter of foreign aid. I have supported it 12 years here. I voted for it 11 times. But let me give you an example.

In the 1970's and 1980's, the Bank lent $770 million to support a project in Indonesia that moved 2.5 million people out of where they live, somewhere else. I am not saying we should throw the baby out with the bathwater. I want to fix this.

My approach is the only way we could get people's attention. I know that Mr. Frank has worked hard on this subcommittee to try to get their attention. I think what got most of their attention is when we offered the amendment on the floor last year to cut off the increase in funding, it got within six or seven votes, and they said, wait a minute, they are serious about this, this thing might pass next year.

I don't want to shut this down, and I don't want to cast aspersions on some of the fine work they have done internationally. I know about your work in the Peace Corps, and you are to be commended. I just don't want—what I believe is if this stuff continues, it is going to undermine our ability to really have foreign aid and to be able to have these institutions work.

That is my only purpose in this. I don't want to kill the Bank. I don't want to close it down. I just want it to be fixed.

I appreciate your comments as a truly constructive criticism. Sometimes, though, you have to use examples that wake people up.

Mr. KENNEDY. I will yield back the balance of my time, Mr. Chairman. But I appreciate the opportunity to work with the gentleman from Ohio.

Chairman FRANK. Thank you, because I think this is a very important discussion. We have two points we are trying to keep in mind simultaneously.

Mr. KENNEDY. The only thing I do recall, Mr. Chairman, is for the few years we had Mr. Reagan and Mr. Bush in power, how many Republican votes did we used to get for the replenishment

of either of these funds, do you recall? If Mr. Kasich gave us a vote, he was one of maybe about three that we got out of the Republicans for last year.

Chairman FRANK. Let me call on one of the other regular supporters of foreign aid—the gentleman from Nebraska.

Mr. BEREUTER. Thank you, Mr. Chairman.

Your numbers are a little bit off. It wasn't anything to brag about.

I want to thank the distinguished gentleman from Ohio, Mr. Kasich, for his positive contributions to the oversight of the multilateral development banks, and for his statement today.

As a person serving on the authorizing committee for bilateral assistance programs on the Foreign Affairs Committee, I can tell you that I believe our bilateral programs are in greater disarray than the multilateral development banks. But what we do in developmental aid, that is so meager today in a bilateral sense that the impact of policies and programs that are not working well at the World Bank and the other MDBs has a greater detrimental or positive effect.

So if you want to focus on where you do the most good in terms of reform or where you get the greatest bang for the buck, you focus on the multilateral development banks. So I think the gentleman's priorities are right.

I notice that you have your meeting with Mr. Bowsher tomorrow, according to your testimony, and you can tell him I will be there to offer another budget cut on the House floor, a 5-percent cut next year, unless we get some improvement in the quality of their work.

We have had shoddy work from the GAO for this subcommittee, in my judgment, but on domestic issues, and it has tended to be a bit partisan. But I am hoping that we can continue to have good work from them on international efforts. And we will be watching with considerable interest as well as concern about the product that they give to you.

I would ask you, Mr. Kasich, have you got any particular areas where you have asked them to focus, and is your work with the GAO exclusively directed at the World Bank or is it all the MDBs?

Mr. KASICH. Well, at this point, Mr. Bereuter, Mr. Struble back here, I understand they have a dart board in some of these administrative agencies out there with Wayne's picture on it. He has been working closely with the GAO and a lot of these outside groups. They have kind of—he has been kind of a magnet for them.

What we have done with the GAO in terms of the World Bank is they have looked—they are studying all of these different issues related to the World Bank. They are becoming involved, at our request, in the Asian Development Bank and all of these others, as they have been involved also with some of the multilateral reviews as well.

What they are focusing on are these four areas: What is happening on the administrative cost; what is happening on the performance—that is what we are most interested in; the nonperforming loans; and then what is the process, if they are going to build a dam in some country, what is the process for people who live in that area to be able to come in and impact the Bank's decisions.

They have kind of looked at the creation of the independent body, and we are going to have them continue to look at that. But then I also want to ask Mr. Bowsher to have the GAO take a look at both the multilateral and the bilateral foreign aid operations, and let's get some kind of a mark up there, some kind of a measuring stick to figure out how these things are working and what improvements can be made.

I am just going to meet with him tomorrow because I want to emphasize to him how important we think this area is. And I would also urge you to meet with him. I am going to bring up what you just told me.

If a Member like Mr. Bereuter, Mr. Chairman, is starting to wonder about the quality of work from the GAO, we have got a real problem.

Mr. BEREUTER. I said to the gentleman, I have never offered an amendment on the Legislative Appropriations bill before, in the 16 years I have served, but I feel so strongly that it is an agency that has exceeded its size, and it really needs to refocus on quality.

I thank the gentleman for his testimony. I look forward to working with him.

Chairman FRANK. Mr. Wynn.

Mr. WYNN. Thank you, Mr. Chairman. I appreciate the opportunity to sit in. I just had a couple of brief questions for my colleague.

You said you viewed part of the problem as the fact that the portfolio contains such a high percentage of nonperforming loans. You believed the problem was in the basic origination of loans and perhaps loans that should not have been made.

Can you elaborate a little bit as to what is wrong with these loans? Are the ideas bad? Is it some sort of collusion? What is going on? Why do we have bad loans being made in the first place?

Mr. KASICH. I think the problem is, in a lot of these institutions, these international institutions, you know, there is a sense that if we can just loan more—the emphasis is on loaning, get it out the door, rather than analyzing to figure out whether the loans make sense. And when you are in a mindset of you want to get loans out the door, then you end up supporting some projects that don't work to the benefit of the people who you are trying to help.

So what we have suggested is that truly the creation of an independent body within the World Bank that would sit down and make sure that the World Bank loans reflect the criteria that the World Bank has established for itself.

What the Wapenhans Report indicates is that the Bank has made loans and violated their own criteria for loaning money. We are not interested in trying to establish exactly what the criteria is. But we would like them to make sure their criteria is rigorous, that it makes sense, and that they follow their own internal requirements, which they haven't done.

This independent review panel, if in fact it is independent, that is really the question, if it is independent, then they are going to be there in a position, that along with the public information office, to hear from people from these countries who would be affected, who would say, wait a minute, you want to put this dam in, do you know what this is going to mean for the people in this region?

And so there is also an independent group that not only looks at the project from that point of view, but also says, we don't want to make this loan because this doesn't make sense and violates our own criteria. I think the sense is, though, get it out the door. And that is what we have to slow down.

Mr. WYNN. Would the primary sanction for violation of these loan criteria being withholding our aid or our contributions?

Mr. KASICH. I think all the chairman and I would like to see happen is a true independent review panel, some improvement in this portfolio, changes in the administrative costs, making sure that human rights concerns are adhered to in these countries. You don't want to be resettling poor people from—uprooting them and making them move 50 miles to some other—we wanted that to stop.

I think we have enough ways to have oversight over that to be able to have this Bank function successfully. If it doesn't, then we don't have any choice but to move to reduce the funding or not replenish the funding of the Bank. I think if they know we are serious, and if we have to do it for a year or two, they will change.

Mr. WYNN. Thank you.

Mr. KASICH. Thank you.

Chairman FRANK. Mr. Watt.

Mr. WATT. Thank you, Mr. Chairman. I don't have any questions of this witness.

Chairman FRANK. Thank you. I just would note that the length of time Mr. Kasich was here after his statement is indicative of the fact that he is seriously engaged on these issues. Sometimes Members come and make pro forma statements, but Mr. Kasich's involvement in this goes far beyond that. We look forward to working with him.

Mr. KASICH. Thank you, Mr. Chairman.

Chairman FRANK. Next we will have our panel. Deputy Assistant Secretary of the Treasury, Susan Levine; Lori Udall, Washington Director, International Rivers Network; and Durwood Zaelke, President, Center for International Environmental Law.

Please come forward. I want to reiterate my appreciation of the Treasury Department's—and particularly Ms. Levine's—willingness to be completely cooperative with us in all these efforts. We will begin with Ms. Levine.

## STATEMENT OF SUSAN B. LEVINE, DEPUTY ASSISTANT SECRETARY OF THE TREASURY FOR INTERNATIONAL DEVELOPMENT, DEBT, AND ENVIRONMENT POLICY

Ms. LEVINE. Mr. Chairman, you have asked us to testify on the implementation of the World Bank's new initiatives, on information disclosure, and the establishment of an Inspection Panel. Before commenting on the implementation, I believe it is important to stress that the adoption of these initiatives, which occurred less than 1 year ago, is a great accomplishment.

The leadership exercised by this subcommittee, in close cooperation with Treasury and nongovernmental organizations, was essential to these efforts, as well as those of Mr. Kasich's. His comments were well heard, and I believe the establishment of these policies will go a long way to address the concerns he has raised.

While we know there have been problems in implementation, we quite frankly expected this. These new initiatives will bring a dramatic change to the culture of the development banks. And such change does not come readily.

Today, I know you will hear a number of complaints about problems in implementing these initiatives. I will touch on some of them myself. However, it is premature to draw conclusions on their success, based on the short history to date.

What is clearly important is that the Bank has adopted these initiatives and is in the process of implementing them. We have assurances from the highest levels of bank management that they are committed to this process. And in this context, Treasury is working to make sure that the Bank develops clear guidelines for staff to assist them in implementing the Bank's policies.

I will spend some time in my testimony discussing what steps management is taking and what steps we will encourage them to take to ensure that these ground-breaking initiatives will be implemented.

First, the information policy. The policy states, and I quote, that "there is a presumption in favor of disclosure outside and within the Bank in the absence of compelling reason not to disclose." The challenge facing an institution such as the World Bank, which engages in ongoing sensitive negotiations with governments, will be to manage the dynamic tension between the presumption in favor of disclosure and the compelling reason not to disclose.

Some of the things the Bank is doing or has plans to do we expect will mitigate this tension. To facilitate access to information, the Bank this year opened its Public Information Center in Washington, DC. The Center publishes monthly a complete list which specifies all documents available and describes how to obtain them. While the NGO community has had the greatest interest in the successful adoption of an information policy, it is noteworthy that the majority of users of the Public Information Center, 70 percent in fact, have come from the private sector.

Businesses interested in World Bank contracts have recognized the value of having information early in the project cycle. In its first 5 months of operation, the Public Information Center received over 5,400 requests for information from visitors, by telephone, mail, fax, and on the Internet.

In addition, the Bank has set up information centers in London and Paris, and a center in Tokyo is expected to be fully operational by the end of this month. World Bank resident missions in borrowing countries also serve as contact points for information. And, increasingly, documents will also be available online through the Internet system. We think this is an exciting opportunity and hope to expand this trend dramatically and to see more documents on the Internet. Already, early Project Information Documents can be accessed electronically for all projects in preparation.

We know there have been difficulties in getting information from the Public Information Center. In a number of cases, information has been placed in the Information Center late. And in our work with management, this point is a priority for improvement.

As for the Project Information Documents, it must be remembered that these documents did not exist prior to the adoption of

the new disclosure policy and must now be written for all projects. At this point, we are comfortable that these documents are in place in the Center. The focus now should be on ensuring they have adequate coverage and quality.

We urge the NGOs to assist us in determining where serious gaps in substance exist. The main issue we seem to face with implementation is difficulty in determining what information is to be released on projects which the Board has not yet approved. Many requests for factual technical information on projects under preparation have been refused, and we think, incorrectly.

To a large extent, the non-release of certain types of factual technical information comes from ambiguity in the information policy itself. And we are currently working with Bank management to clarify this.

As you may recall, there were serious efforts by NGOs to have the Bank make available the early versions of the appraisal reports, the so-called yellow and green cover staff appraisal reports. This was not supported by most of the Board, which did not want to make available early decisionmaking documents.

The United States took a strong position in the negotiations that if the entire draft staff appraisal report could not be released because of potential sensitive judgments, or other information that might impinge on loan negotiations, then certainly the factual technical information which provided the basis for these reports should be released.

The United States, with the support of senior management, convinced the Board that all non-judgment information, that is, so-called factual technical information, should be made available.

The rationale for this seems clear to us; namely, that informed consultation can only happen if those being consulted have adequate information. Bank policy clearly states that such factual technical information should be made available. And I quote from the policy itself, "There will be instances where the availability of factual technical documents on projects under preparation can facilitate consultation. In such cases, upon requests for additional technical information about a project, the country department director responsible will, after consultation with the government to identify any sections that involve confidential material or compromise government-bank interactions, release factual documents or portions thereof that provide inputs in the project preparation."

The problem, of course, which I am sure will be highlighted by others on the panel, is that many Bank managers have so far resisted providing the factual technical information on which early project documents are based.

I should point out that the requests the Bank has received for factual technical information have oftentimes been much too broadbased. They have been blanket requests. I would advise those seeking information in the future to be specific about the nature of the information that they are seeking, for example, background information on the implementing agency, alternative energy analyses, and the like.

It is my view that many of the problems will be addressed as the Bank addresses the guidelines for release of project documents, and the Bank has already made progress in developing these guide-

lines. After going through several months of difficulties in implementation of the information policy, the Arun Hydroelectric Project in Nepal is perhaps the best known case where information did not flow on a timely basis. Senior Bank management issued several advisories to staff about the need to implement successfully the information policy.

The latest, dated June 10, advised country department directors that—again, I quote—"since the disclosure policy emphasizes that the Bank has a presumption in favor of disclosure, I urge you to encourage staff to be as constructive and transparent as possible in responding to requests for documents, particularly in regard to factual technical information."

It is critical that the Bank live up to all the commitments contained in the new policy, because determining release of factual technical documents has proven to involve a set of difficult judgments. The Bank is currently preparing an operational memorandum setting out in more detail its procedure for dealing with such requests.

And I should add, a draft of that has just been released late last night, which some members of this subcommittee and some members of the environmental community do have, but we have not had much discussion on that. But Bank management has determined that factual technical annexes will be made available, as well as a wide variety of stand-alone documents, including, for example, prefeasibility studies, cost-benefit analyses, historical financial statements, and technical studies underlying environmental impact analyses.

We believe that management is working to set the right tone and process for this policy. Bank management will have to continue to be vigilant in seeing that its policy is implemented. These guidelines will hopefully resolve outstanding issues and facilitate full implementation.

I do want to point out that while there have been lapses in the implementation of the new disclosure policy, increased access to information has begun to serve its most important purpose, which is to enhance participation by beneficiaries; that is, those who are affected by a project in preparation. This is complemented by work under way to ensure public participation in project development and implementation.

Turning briefly to the Bank's Inspection Panel, I am pleased to note it will become operational on August 1. The creation of such a panel has been heralded by many, including NGOs, as a remarkable advancement. Members of the Panel have been selected. They are Ernst-Günther Bröder from Germany, who will be chairman; Richard Bissell from the United States; and Alvaro Umaña Quesada from Costa Rica.

Mr. Bröder brings to the Panel extensive institutional experience from his work at the World Bank and the European Investment Bank. Mr. Bissell has an extensive background in both academia and development. And Mr. Umaña brings to the Panel an impressive history of involvement in environmental issues. Among his most recent accomplishments, he was responsible for the independent evaluation of the Global Environment Facility.

The Panel's budget has been set currently at $1.5 million for fiscal year 1995. The Panel has an executive secretary who is an attorney and is in the process of drafting administrative guidelines for the Panel. The Panel itself, however, will have final approval of these guidelines and in fact may revise them if they so choose.

We have early assurances that the Panel understands the importance of consulting with the public on the administrative guidelines.

Some have expressed doubts about the Inspection Panel's independence, accountability, and potential effectiveness. We believe, however, that as long as the spirit as well as the letter of the resolution establishing the Panel is adhered to, it will fulfill its important purpose.

As we have seen from implementation of the information policy, it is important early on to set the right tone for how the Panel will conduct its business. The Panel has clearly been set up as the last stop, not the first stop, in bringing complaints to the Bank, and we expect that there will be very clearly defined procedures for bringing complaints to the Panel.

Complainants must first attempt to resolve their complaints through normal communication with the Bank. However, we believe it will be very important that potentially aggrieved parties not be prevented from bringing complaints to the Panel, and therefore we will urge the Panel to be liberal in determining who has standing to address complaints to it.

As we move into the next phase of implementation of the Bank's initiatives on information policy and the Inspection Panel, Treasury will continue to monitor progress closely. As you have already seen, we are strongly committed to these initiatives, and know they must be successfully implemented.

We appreciate the close partnership of this subcommittee and the NGO community in working with us to realize the successful implementation of these initiatives, and look forward to a continuation of that partnership.

Thank you.

[The prepared statement of Ms. Levine can be found in the appendix.]

Chairman FRANK. Thank you. I am glad they got those guidelines out yesterday, but I can't call a hearing every time we need guidelines out. So I hope we will find a way to break that linkage.

Next, Ms. Udall, this will be one of the rare times when you will come next under alphabetical order, so why don't you go ahead.

## STATEMENT OF LORI UDALL, WASHINGTON DIRECTOR, INTERNATIONAL RIVERS NETWORK

Ms. UDALL. Thank you, Mr. Chairman. I would like to focus my comments today on an issue just discussed by Susan Levine, on a major problem with the Bank's new information policy, the failure to release factual technical information, and then I will go on to cover a couple of recent developments around the creation of the Inspection Panel.

One of the barriers to obtaining project information, timely information, before project approval is the failure of the Bank to adhere to provision 5 of the Bank procedures. This was meant to provide

interested and affected people with more information between the time that the Project Information Document is issued and project approval when the final staff appraisal report is released.

NGOs have been denied critical information contained in early project documents, such as executive project summaries, green and yellow staff appraisal reports, and their annexes, feasibility studies, baseline data, and studies on alternatives.

The best example of this failure is the case of the Arun III hydroelectric project. I don't think we should lose sight of our goal. We are not talking about Washington-based groups getting information. What we are talking about is people on the ground who are adversely affected by projects who are trying to promote alternatives and trying to have control over their own development at the critical stage of project planning and design.

For the last 2 years, local Nepalese groups have been opposing the Arun III project, a massive hydroelectric project in a pristine remote valley. Local NGOs have promoted alternatives to the project that they believe are much more appropriate for Nepal. They have been requesting basic information from the Bank for over a year, especially the Bank's analysis on alternatives.

While they have put out their own studies and documentation on alternatives, they were consistently at a disadvantage because they had no access to World Bank documentation, either on finances, alternatives, or the cost-benefit analysis. Accordingly, it was difficult to counter the Bank's arguments that it had considered alternatives to the projects when all Bank documents on alternatives were withheld.

As the loan negotiations grew closer, in early April, in support of Nepalese NGOs, Washington-based groups sent several letters requesting early project documents and a study on alternatives. After 2 months of letter exchanges, on June 9, one day before a briefing on Arun III, the Bank publicly released its study on alternatives.

To illustrate the absurdity of the failure to release information, several times during the briefing when questions were asked, the task manager would look for his answer through the very document that we had requested, the green cover staff appraisal report. Because of Arun III, and because this hearing was approaching, the Bank has issued guidelines covering the provision on factual technical information, and we just got a copy of them yesterday at 6 o'clock, so we haven't had very much time to review them. We would like to submit detailed comments.

Chairman FRANK. Let me just say, for the witnesses here and anyone else, the record will certainly stay open so that we would solicit from anyone who is interested written commentary on the guidelines. Obviously, that would be an essential part of this process.

Ms. UDALL. I have reviewed them on a preliminary basis. Preliminarily, I believe they are inadequate, because they don't allow for the release of green or yellow staff appraisal reports, or alternative analysis, economic analysis, or financial and institutional analysis of implementing agencies. They are actually weaker than an earlier version that was put out on June 3.

There is very little, if any, confidential information in the green and yellow staff appraisal reports. What is confidential should simply be excised and then the document should be released. Nor is there a compelling policy reason to withhold this information.

The information that is listed in the guidelines cannot substitute for the information that is in a staff appraisal report. The staff appraisal report is the main technical document of a project.

Combined in this document is the basic justification for the project, as well as the Bank's involvement in it. It contains information on the overview of the sector, institutions in that sector, the Bank's experience, lessons learned from past lending, the beneficiaries of the project, the rationale for Bank involvement, the project's objectives, the project description, physical components of the project, cost estimate, financing plan, financial analysis, monitoring and evaluation, and so on. All this information is critical for local people who want to have timely input into a project or to challenge or ultimately oppose a project.

Moving on to the Inspection Panel, when setting up a mechanism to increase the Bank's public accountability, we believe it is important to have a process which is transparent and independent. Unfortunately, since the resolution was passed, many developments related to the Panel have not been independent. In fact, at times it seems that Bank management is intent on interfering in every aspect.

For example, during the final stage of the selection process for the Panel, one of the finalists expressed concern regarding a provision in the resolution which imposes a lifetime prohibition on working at the World Bank. The finalist was hesitant to accept the Panel position because he was interested in securing future employment with the Bank.

Bank management then went to some Board members to query whether the resolution could be changed from a lifetime prohibition to 5 years. Eventually, it was changed so that a Panel member could work as a consultant but not a permanent employee of the Bank after 5 years.

In principle, we are not opposed to revisiting provisions in the resolution, at some point when the Panel is established, and there are clear procedures for changing the resolution. But revising the resolution to accommodate the needs of an individual Panel member is a dangerous precedent.

As a matter of policy, it was an unfortunate development and we question whether the person going into the Panel seeking future employment in the Bank is sufficiently independent to serve on the Panel.

Another development is that the Bank recently hired a lawyer to write draft procedures for the Panel. In our view, this is an unnecessary interference from Bank management. If Inspection Panel members are to maintain independence from Bank management from the beginning, then a task as important as drafting procedures under which they are going to operate should clearly be initiated by the Panel itself.

In a related development, the Bank is currently in the process of revising its system of operational directives which are statements of Bank policy and mandatory procedures for Bank staff.

There is concern among NGOs as well as people inside the Bank that in this revision process Bank policies and procedures are being weakened and that stronger parts of the policies are being turned into advisory material which is not binding on Bank staff. This could result in claimants having far fewer standards to hold the Bank to, and ultimately will greatly lessen the scope of the Inspection Panel's mandate.

We strongly urge the U.S. Treasury and this subcommittee to request that when these policies are being revised, drafts be released to executive directors and the public for comment.

Based on the evidence we presented today, both in written and oral testimony, we urge the subcommittee to continue to withhold authorization of the U.S. contribution to IDA for the third year and to continue vigorous oversight in 1995.

We would like to thank you and the subcommittee for your extensive work in these areas and the crucial role you have played bringing about the reforms.

[The prepared statement of Ms. Udall can be found in the appendix.]

Chairman FRANK. Thank you. Mr. Zaelke.

## STATEMENT OF DURWOOD ZAELKE, PRESIDENT, CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW

Mr. ZAELKE. Thank you, Mr. Chairman. I would like to join in the testimony of Lori Udall. Thank you, Lori.

My testimony focuses on the Inspection Panel and starts with several problems in the resolution establishing the Panel, principally things we hope could be fixed with strong administrative rules.

As it exists, the resolution is a half step. It is not enough on its own. We have far too great a distance to go to achieve environmentally sustainable development, especially in developing countries. These, of course, are the countries the Bank is supposed to serve.

Among the problems and ambiguities that must be addressed when drafting Panel procedures are the following. First there are the threats to the independence of the Panel, many of which Lori has already noted. We have also seen in the initial phases restrictions on access to the Panel by claimants, limits on public scrutiny of Panel operations, limits on the Panel's authority to investigate claims, and finally, restrictions on the policies and procedures of the Bank that form the basis for filing the claims.

We do understand, again, as Lori mentioned, there are efforts under way to streamline or, in our opinion, possibly gut the policies and procedures and to move the few standards that do exist into ancillary documents that explicitly cannot be the basis for claims.

These are some of the problems we are left with after our half step. But we are really here to talk about taking the next step to address these ambiguities and oversights of the resolution. This is the step of writing the administrative procedures for the Panel. The Panel may yet live up to its billing if it develops the right administrative rules, and if it follows the right process in developing these rules.

This means writing administrative procedures that actively and aggressively promote openness and transparency as well as public participation and, ultimately, accountability. And it means following a process in drafting those procedures that itself is open and transparent, a process that allows public participation and that is itself accountable.

Without waiting for the Panel to take the initiative, we in the NGO community have started the process of drafting procedures. We have attached a set to our testimony. These are now being circulated among the NGO community for further comment and will be resubmitted to the Inspection Panel.

Based on this draft, there are several points we wish to highlight. First is the need to ensure increased transparency. The procedures that are being developed must ensure that important aspects of the investigation are made public as soon as possible. These include the basic nature of the claim when it is filed. They also include the schedule for investigating a claim, any information supporting potential recusal of a Panel member, and interim findings of fact. Making interim findings of fact public could be critical for ensuring that a claimant and the public have a chance to provide supplemental information.

Second is the need to ensure increased accountability. Here the procedures must ensure that Panel decisions are based on a record that is available to the public, that the decisions are based on a consideration of all relevant facts, that the decisions include the legal reasoning behind the outcome, and that the decisions are issued in written form.

Third is the need to ensure increased effectiveness. The Panel's procedures should reflect progressive approaches to investigate each individual claim, and, as well, to improve Bank operations and policies on a more general level. To this end, the Panel must ensure that it is given maximum cooperation from Bank staff and borrowing governments.

One technique the Panel should consider is to state as its policy in the administrative procedures that it will assume facts in favor of the claimant where the borrowing country or Bank staff interferes with the Panel's ability to investigate those facts. This would include, for example, a country refusing access to the project site where such access was necessary for a thorough investigation.

On a general policy level, the Panel should also use its annual report to make recommendations for improving the Bank's operational policies and procedures. An example here might be that the Panel could recommend to the Bank that in future loan applications, borrowing countries would be required to agree to cooperate fully with Panel investigations.

The fourth point that we wish to highlight is the need to ensure an open process for developing the procedures. It is not just the substance of the procedures that is important, but also the process by which the Panel procedures are adopted. This could be the best demonstration that the Panel has taken its job seriously and will be open and transparent and encourage public participation.

The specific recommendation here is that the Panel issue its own draft administrative procedures and allow the public ample opportunity to review and comment. This basic notice and comment pro-

cedure is an element of all good administrative process and should be routinely expected by the U.S. Government in international rulemaking.

Moreover, the Panel should announce now that the original procedures will be revisited after the first year's experience with various claims. If the Panel follows an open and transparent process and allows public participation, and if the procedures address the problems and ambiguities noted above, the Panel may yet be very successful.

This will be a challenge, however, a challenge that is even more important than Treasury may recognize. It is important not only because the World Bank could and should, as the chairman noted, be one of the most important institutions in the world for alleviating poverty, and not only because the Panel may be our best hope for making the Bank accountable, it is also important because it will be the model for other MDBs, starting with inspection panels planned for the ADB and the IDB.

But even beyond this, the administrative procedures and the Panel itself could also be the model for international institutions other than banks. I would start here with the trade institutions, including the new NAFTA institutions. I would put at the top of this list the World Trade Organization, one of the most powerful international institutions we have ever contemplated creating, an institution that should scare the bejesus out of us. It is powerful and it is not democratic—a bad combination, a combination that threatens U.S. laws for protecting the environment and other social values.

As a general matter, we are giving more and more power to our international institutions, and we now must ensure that our administrative controls over these institutions keeps pace with the power we are giving them. We must move our democratic checks on power to the international level. Otherwise, we will continue to see our democratically set standards at every level of government, Federal, State, and local, overruled by the undemocratic international bureaucracies of international governmental organizations.

Ultimately, I would suggest that we would benefit from an international framework agreement on administrative procedures for all international organizations. The best way to get from here to there is to start with the best possible procedures for the Inspection Panel.

The Panel is one of the most important advances, environmental or otherwise, in international government, but it is still an experiment, and it will only succeed if it starts now with the best possible procedures.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Zaelke can be found in the appendix.]

Chairman FRANK. Thank you, Mr. Zaelke. Let me say, particularly, I would hope, Ms. Levine, we could get some interaction today, but also because the guidelines will be circulated, we will be asking for further comments. I don't know the protocol here, but I would be interested in the Bank's responses, not to us but to you. So we have some time here, we are going to be around for several

more months. If you could undertake to get us some Bank responses to these comments, I think that would be useful.

Let me just say at the outset—and I want to note that we have also been joined by Ms. Waters, who is one of the members of the subcommittee, along with Mr. Watt, who has had the most interest in the multilateral institutions, especially with regard to Africa but not just there—it does seem to me that there is a tendency sometimes to focus on the negative. I think both witnesses have noted that we have moved some. The grade is more incomplete than failure. What I am hoping is that in recognition that some steps have been taken, we could look at some other areas and go back to it.

For instance, Ms. Udall's suggestion that if there are confidential things in the yellow and green documents, you just cross them out and send out the rest of the document. That would be the way I would be predisposed; I need to have somebody give me a good reason why this couldn't be done. As anybody who has ever gotten his or her FBI report or other documents knows, those people are very good at crossing out. If you cross something out and then xerox, you can't read it. So that is not a problem.

I hope you will be able to facilitate that kind of a discussion process, and in the end we will see where we are. But let me just in the beginning ask you if you had any response you wanted to make to some of the comments of Mr. Zaelke and Ms. Udall.

Ms. LEVINE. Thank you, Mr. Chairman, I do. It is a debate that is nonending about whether or not——

Chairman FRANK. Not as long as I am chairman, it isn't nonending.

Ms. LEVINE. That is right. Sorry. That is continuous.

And the issue is, quite frankly, do we reopen a negotiation that concluded, or do we make sure that we can get sufficient factual and technical information so that there can be constructive input into projects. And while many wonder why can't we just take the yellow and greens and X out the confidential material, the fact is that was not a route that was supported by the Board. I know that is what Lori wants and what many want. The answer is these are early documents where a task manager is writing their assessment of a government, a project, and it is—it is as if we were writing memos, we think there are some problems here with the implementing agency, we think this, we think that, it is a lot of subjective information that even senior management is not yet aware has been written.

And asking for that to be released is a nonstarter. However, we got around that debate by saying what we are really after is the factual technical information that is necessary to enable people to have input into projects. And the answer we have gotten, and what these guidelines are attempting to do and what the policy does is say that any factual technical information, it might not even be in the yellow and green documents, should be made available.

Now, a lot of that information belongs to the government, and there is a process where governments will be consulted, but management has stated clearly in their contacts with governments, it will be made clear, there is a presumption of disclosure so if you are going to deny us making this information available, there better be a good reason.

The presumption is disclosure. And it is our sense that to date even that information was not made available. And I will be frank, there are a lot of inquiries for yellow and green documents, which were not covered by the policy, and for all relevant factual technical information. They were blanket requests.

And the responses were not handled well, which is why—and I thought that was good to get this kind of process going, so that management could see that, unless they in fact had guidelines that made it clear to staff, that you must release information, and that this is the type of information you must release, we wouldn't make much progress.

And now people will be able to get prefeasibility studies, and feasibility studies. In the case of Arun, which was a problem, management prepared a document in response to requests by NGOs and the government. This was an analysis of alternatives and it was made available to the public. We are sorry it took so long, but they did do that.

So I think we will have to see over the next 6 months whether, with these guidelines and with requests for information, people in fact can get sufficient factual technical information that will allow for constructive input; they will not get the yellow and greens. Maybe over time the documents will evolve in a way, as has happened in our own situation with Freedom of Information, that people know documents are going to be made available publicly, and the way they are constructed makes it easy to keep the confidential stuff back.

Chairman FRANK. A couple of points. I appreciate that. At some point I think I am probably going to ask for my own edification if I can go over with some of you the varieties of these documents. Maybe you could let me see a yellow and a green report and I can make my own comparison, almost randomly selected, because obviously if you know what you are going to be asked to produce, you produce it differently, so at some point I will want to deal with that.

The other thing, I do want to acknowledge, I realize it is a frustration for you to sit here and be told that this isn't enough and then go to meetings where everybody thinks you are an exhibitionist for doing what you are doing.

One of the things I hope to do is to convene a meeting of parliamentarians from democratic societies who have oversight responsibilities for these institutions. I am going to try to organize a little lobbying on your behalf so you are a little less alone there. That is, we are going to try to get the NGOs to help us try to mobilize a parliamentary constituency so that some of the other EDs will be more supportive of these efforts. Because we do appreciate you are here as a proxy for the Bank, and you are not the Bank, we understand that. You are trying to move the Bank. And we will be doing that. But I think we do have to get down to some hard cases on this.

Mr. Bereuter.

Mr. BEREUTER. Thank you, Mr. Chairman.

I think a good followup on what the chairman has said—and this is the first time I've heard about those plans, Mr. Chairman.

Chairman FRANK. We talked about them yesterday.

Mr. BEREUTER. Over what extent are U.S. concerns over implementation of the policy and the operating procedures of the Panel shared by other countries, by other executive directors? Speak candidly about what kind of reactions you are running into, without naming names.

Ms. LEVINE. Yes, Mr. Bereuter, I will try to be as candid as I usually am. I think we are in many ways going this alone. We are working very closely with Bank management, and in fact I suspect if some of the other Board members, you know, get wind of how closely Bank management is working, not just with us but with the NGOs as well in terms of early release of guidelines, early discussion, there may be some repercussions.

Chairman FRANK. We will find that out.

Ms. LEVINE. We certainly will. So we are not getting any vocal support at all.

I think that, if anything, the Board is quite pleased with the policy and thinks we might be making too much of a fuss. So it is not something where we are out there with many others. It is really us, with the cooperation, I must say, of Bank management, to try to make sure we have procedures to implement this policy.

Mr. BEREUTER. Thank you.

By the way, I wish to apologize to the panel. I had to step out to meet with Ambassador Kantor and listen to him about the Export Enhancement Program and its vulnerability for budgetary reasons under the Uruguay Round.

Apparently, though, in the testimony offered by you, Ms. Udall, at least in the written testimony, you have a discussion about the Panel and the lifetime prohibition of participants there, which you say that management has then attempted to move to a 5-year limitation upon employment in the Bank, if I understand your testimony correctly. And I sense that there may be some disagreement on that subject. Can you enlighten me? And then perhaps Ms. Udall can have a chance to respond to that, if she wishes.

Ms. LEVINE. First, before I continue, we have our new Executive Director here, Jan Piercy, she let me know in her courtesy calls with EDs, she is encountering great support for the information policy, back to your previous question.

Ms. Udall is correct, there was such an attempt to respond to—in particular one of the panelists' concerns, and that was Mr. Umaña, quite frankly, who is a good, strong environmentalist—his concern was that at some point in his life he might like to do something for the Bank, recognizing it should be far enough away, and there was an attempt to revise those procedures.

It is my understanding, however, that that raised new issues with the Board and that some of the Board members who weren't pleased that the Panel was composed of whom it was, that there were other members who were going to use that as an opportunity to reopen the whole issue. So it is my understanding that that resolution in the end was not changed, and that there is still currently such a prohibition on returning to work for the Bank even as a consultant.

We will verify that, but it is my understanding that there was an attempt to do so, that it was ultimately not done. [The Treasury Department later confirmed that this understanding was correct.]

Mr. BEREUTER. My reaction, first of all, is that is a decision of the Board, and management could not set it aside unless something is strange there in the first place.

Ms. LEVINE. It would have to be with the Board's approval regardless.

Mr. BEREUTER. Ms. Udall, you wanted to say something?

Ms. UDALL. My understanding is it was changed to allow for someone to serve as a consultant to the Bank but not a permanent employee. And our main complaint about that was that we thought it was highly unusual and set a bad precedent to change part of the resolution to accommodate the needs of an individual nominee to the Panel. Not even to someone who is on the Panel, but a nominee.

Mr. BEREUTER. Yes, I understand your concern. I think it is unusual.

Chairman FRANK. Maybe whether or not it was changed is still a secret.

Mr. BEREUTER. Mr. Zaelke, you in your written testimony, but then departing from it in your oral presentation, you spoke about the WTO as ominous, and argued that the international institutions are given power which increasingly threatens U.S. standards for environmental and other social protection.

Could you explain the nature of your fears and how your proposal for a new international regulatory mechanism could allay some of those fears?

Mr. ZAELKE. Yes, thank you. Those fears are based on, for example, the list that the European Union has put together of United States Federal and State laws that would be in conflict, in their opinion, with the GATT, and that would ultimately be overruled by the WTO.

We have seen this already as well. This is not just a future-looking threat. We have seen this in the past from the current GATT's tuna-dolphin panel report. This is one very good example where our Marine Mammals Protection Act has been threatened.

There are two separate issues here; one, whether we want to give this amount of power to international institutions. This is very important question. The second is, if we give them that power, it appears to me that we should make sure that we have democratic procedures so that citizens can participate in these institutions, so that institutions make decisions in a transparent way, and so that these institutions are ultimately accountable.

We have not had the success yet that we have had with the World Bank's Inspection Panel, with the World Trade Organization or any other trade institution. The Panel can be a beginning of democratic accountability for international institutions. And I would say that we should push for democratic accountability in trade institutions as well.

Mr. BEREUTER. Thank you.

I won't argue with your concern about transparency and participation. It is, of course, too early to assess the WTO, since it doesn't actually exist yet. But it will be coming into existence soon. And I want to say this to sort of set my own views on record without in any way labeling you, because I respect your testimony and the contribution that you are attempting to make.

But I do think we have a strange coalition of extreme right and extreme left coming together to oppose the WTO. And I think Americans need to understand that ultimately the decision about whether or not the WTO finds our laws to be in contradiction to the Uruguay Round or any of the other findings or procedures or programs of the GATT is the Congress.

If we choose not to change the law, even though it is said to be GATT-violative, that is our prerogative. We don't lose any sovereignty. The United States pushed very hard, harder than any other country, for an effective dispute settlement mechanism, and we got it, the WTO.

And I would think that if we put together a list of things that we believe that the European Union member States do or have on the books that are GATT-violative, it would be much more lengthy than their list for America, although obviously they are not as advanced on most areas of environmental protection, and our list would cover more subjects other than environmental than perhaps theirs would.

But ultimately, if we decide that our procedures, which are deemed to be GATT-violative, are going to stay on the books, that is what happens, and they can bring retribution against us, but they cannot remove our ability to exercise sovereign power through enactment or sustaining legislative acts.

So I just wanted to say that. I do think that some people suggest there is a threat on our sovereignty, and I really think that is not the case, because the Congress ultimately makes the law, and if we choose to say we want a higher environmental standard or a higher labor standard, we can sustain that.

I do think one thing should be reassuring to the environmental community, and that is that based upon past recommendations of the GATT before we had the new WTO coming on line, their recommendations tended to be science-based as opposed to emotional kind of responses from the European Parliament or other places. And as long as they are science-based, we should come out of the dispute settlement mechanism sustaining our environmental laws if in fact, as is generally the case, our environmental laws are science-based.

So I think the science-based kind of finding record of the GATT should be viewed by the American environmental community as a very positive and favorable sign that the dispute settlement mechanism will work to our advantage.

Thank you for listening. If you have any reaction, I would be happy to hear it, but——

Mr. ZAELKE. Just briefly, you are certainly correct that the GATT and the WTO are not going to change the laws of the United States. They will make us pay a penalty, and that is important, and may put sufficient pressure on us to force us to change our laws.

Regarding the science-based decisionmaking in the GATT, I wish I could share your optimism. What I have seen so far is this: They do pay lip service to the science, but they seem to ignore it in the actual decisions.

Mr. BEREUTER. Thank you, Mr. Chairman.

Chairman FRANK. Let me just say, because this is an extraordinarily important discussion that you gentlemen have been having, the only point I would like to add is that my own view of this changes if that organization and similar organizations can become two-way rather than one-way. One of the problems I have is that I don't want to see an operation that can strike you down for having environmental standards that are too high if it can't also get you for having them that are too low.

I think from a lot of Americans' standpoint, that changes the situation very drastically. If we are talking about an organization that can talk about things that are unfairly restrictive but also unfairly low, in both environmental and competitive effect, and that is true both for labor standards and the environment, we get a different situation and that is what we are going to be looking for.

Those who are trying to frame such an international operation should understand, that for many of us, nobody expects to get perfect results. I would expect any organization will from time to time make a decision I don't like, but if there is a possibility of also raising up standards as well as leveling them off, then it is a different story. And that is something we will be continuing next week.

Mr. Watt.

Mr. WATT. Thank you, Mr. Chairman.

I wanted to go back a little bit to more basic discussion of the process of getting transparency on the information that is there and make sure I understood the process that one goes through, an NGO, for example, goes through when they are trying to get some of this information.

Do I understand that the first recourse is to a manager or a staff person for a specific piece of information, and then—just run through that process, if you can.

Ms. LEVINE. Yes, Mr. Watt. The first stop for information request would be at the Public Information Center, and initially what someone would be referred to would be the Project Information Document, which is the PID, which would be a two- or three-page explanation of a project to give enough general information. In many cases, for many people this may be sufficient.

If then one wanted more information, again, since these are projects—we have to distinguish between projects that have not gone to the Board for approval and projects that have already been approved. I think the bulk of the attention, quite frankly, will be on projects that have not yet gone to the Board, for the early project documents.

If someone would then like more information on that project, the person would then go back to the person in the Public Information Center who will know whom to contact in the Bank, and quite frankly, any seriously interested person will also know whom to contact in the Bank. But this will not be a list that is made randomly available.

The Public Information Center person would then contact the task manager or the country director of the project, and say, "We have a request for more technical factual information" and would explain the type of information.

Now, to give you a sense of magnitude, in any given year the Bank is working on roughly 200 projects. There are probably 10 to

15 that are the most controversial, that will attract the most attention.

What the Bank is intending to do with these just-released guidelines is to apprise the staff working on those projects that they should compile a list of all the technical and factual documents that are associated with the project, and which of those documents can be released, which portions can be released. That list would then be given to the Public Information Center so that they wouldn't have to, every time there is a request, for example, on Arun, which was clearly one that was heavily requested, they wouldn't have to go back to the country department to see whether there is information, what is available, and what could be released.

For the other 180 or 190 projects, it would be case by case. But for most of the time, what we expect to see and what management is working to develop is there could be a list, it could be 250 documents, depending on the magnitude of the project. And, moreover, we have asked management to be explicit about what those documents are, so that when somebody is looking at a list of documents, that person will know, well, this is a feasibility study, this is a soil analysis, even potentially this is part of an annex. So that will be the process.

Mr. WATT. Let me hear from Ms. Udall, because I think she has a different perspective. Then I want to go up the line further to the next step in the process, and to the Panel ultimately. I am just trying to understand the process.

Ms. UDALL. One point I would like to make is that the policy that we are talking about is not retroactive. So, basically, you have about $140 or $150 billion portfolio that does not apply under this policy, the policy does not apply to those projects. And that is a very serious problem, because there is extensive interest in ongoing projects that are not covered under this policy, and there are no clear guidelines for releasing that type of information, and there have been several arbitrary refusals for information on those projects as well.

So one of the things that we have recommended in my written testimony is that the Bank also establish clear guidelines for the ongoing portfolio, because the actual number of projects we are talking about that are covered under this new policy are really quite small.

The other issue is the Project Information Documents that are available in the Public Information Center are actually almost completely useless for anybody who wants to have input into a project. And what we have found is that they are not being updated or expanded and they don't contain basic technical project information that people need in order to have input. And that is why this whole provision around factual technical information is so important.

We do not agree that the topic of release of yellow and green appraisal reports is closed. We believe that under this new provision that it could be construed that those documents could be released.

Mr. WATT. The reason I wanted to go to the next step was because it sounds to me like the first step probably is very superficial, the information you can get. So if you are looking for anything in depth, you are going to have to go to what the next step is.

Ms. Levine, were the policies intended to apply retroactively, or were they intended to apply retroactively, and what are we doing about the transparency of all the things the institution has been involved in to this point?

Ms. LEVINE. The policy was not applied retroactively. It is part of an issue of doability. The Bank has thousands of projects. I think the way they are handling requests and the way they will continue to handle requests for projects that are not covered by the policy is case by case, going to the country——

Mr. WATT. But using the same guidelines?

Ms. LEVINE. The guidelines we are talking about are applying to projects affected by the new policy.

Mr. WATT. What guidelines would they apply retroactively in evaluating case by case if they are not applying the guidelines——

Ms. LEVINE. Again, one would have to consult with the country director, consult with the government to see about the government's willingness to have information made available that at the time——

Mr. WATT. We are not driving those, the country——

Ms. LEVINE. The country is the owner of a lot of information, and the information was provided at a time when all information was to be kept confidential. Then the policy was changed. It is very easy to make it clear in negotiations that new information will be made publicly available, but applying the new policy retroactively is difficult.

Mr. WATT. Take me to the next step.

Ms. LEVINE. To the Inspection Panel?

Mr. WATT. No, it sounds to me like there is a step between this supervision level.

Ms. LEVINE. That is right. Then the next step is, as I elaborated, one would request additional technical factual information, and that could be—again, we recommended that one be specific. The specificity will be helped if in fact the Bank makes available lists of documents.

And there could be——

Mr. WATT. Who makes that decision about whether that information——

Ms. LEVINE. This will be part of the guidelines. If the information is deemed technical and factual, in other words, it is not judgmental, it doesn't involve projections about the future, but is more technical, even consultants' reports——

Mr. WATT. Who is making the decision?

Ms. LEVINE. The country director will list what the information is, based on guidelines that have been provided by senior management, and in the guidelines that have just been released——

Chairman FRANK. Susan, answer the question. "Who?" "Who" is not "what." Guidelines is "what." "Who" is like Joe, Mary.

Ms. LEVINE. The country director.

Mr. WATT. Or is it the manager that——

Ms. LEVINE. No, no, it is the country director. The manager in the Public Information Center is merely a conduit. It would be the country director responsible for the country.

Mr. WATT. Not even senior management?

Ms. LEVINE. Country director is pretty senior.

Mr. WATT. So the country director is a staff person of the Bank, not of the country, then.

Ms. LEVINE. That is right. Country directors are senior Bank staff members.

Chairman FRANK. Would you yield?

Is there an appeal? Whom do you appeal to? Because the country director is pretty much——

Ms. LEVINE. Yes, you would then go to the person who has been drafting the guidelines, Jim Adams, who Lori mentions in her written testimony, and he in fact in the first 6 months, is saying, keep sending all your requests to us, we will try to make it clear what is factual technical information and what is not. So you will have recourse to the people drafting the guidelines, as well as to the Treasury which is heavily intervening, and of course, to the Board.

Ms. UDALL. Can I make a comment?

Mr. WATT. Quickly. I am sorry, I am running out of time.

Chairman FRANK. No, this is very useful.

Ms. UDALL. The process is the country director is supposed to contact the borrower government and the government is supposed to identify portions of the document that they consider to be confidential. And if there are sections that are confidential, then those sections are supposed to be excised and then the document can be released.

I think whom you go to, when you are denied a request, whom you go to is really kind of open to question right now. We find the fastest way to get information is to write a letter to Lewis Preston, rather than contact another midlevel bureaucrat.

Mr. WATT. That is fine for the time being, but on a long-term policy basis, I mean, I can't imagine that we will continue to leave whoever is drafting these guidelines as the focal point in this process. There has to be some kind of long-term vision for where this thing goes.

Ms. LEVINE. As I said in my testimony, Mr. Watt, part of the challenge here is we are convinced—senior management is convinced of the importance of this policy. You have to get the policy and its implementation down the line. And that is the reason we need these guidelines.

Mr. WATT. Senior management——

Ms. LEVINE. Senior management——

Mr. WATT. Is above country——

Ms. LEVINE. That is correct. And the country directors have now all been instructed.

Mr. WATT. Are they on board?

Ms. LEVINE. They have all been instructed there is a presumption of disclosure and that technical factual information must be made available. And the guidelines that are being provided are to them.

Mr. WATT. Are they on board? Are they supporting this?

Ms. LEVINE. We hope so. They had better be. It is the policy, and we are here to make sure the policy is implemented.

Mr. WATT. I have gotten as frustrated as I can get, and I didn't get my documents out of either the bureaucrat or the country director or whatever informal process. Where do I go next?

Ms. LEVINE. Come to the U.S. executive director's office and say—anybody, actually, will come to the U.S. executive director's office and say—"Now, I have been bugging them on Arun, I haven't gotten what I have wanted."

And we will pick up the phone and call the country director and say, "Why hasn't this person gotten what they want." And they will say, "Well, I don't think it is technical factual, I think it is judgment." And we will say, "Why do you make that determination?" And then if we don't like his answer, we will go right to Jim Adams, and if we don't like Jim's answer, we will go to one of the three managing directors.

So we know that this policy must be implemented. We have been pushing the management, as have the NGOs, to get their guidelines out. So over time, when this becomes institutionalized, we hope to have fewer and fewer problems.

Mr. WATT. And then you finally get to the Panel, if I run out of patience with you all?

Ms. LEVINE. The Panel has been set up to make sure the Bank follows its own policies and procedures. And if a complainant through their normal course of communication with the Bank still feels the policy wasn't followed and there has been damage as a result, they will certainly get a hearing from the Panel.

Mr. WATT. Now, the members on that Panel, is that a full-time job or part-time job? It just convenes periodically, or what is the deal on that?

Ms. LEVINE. There are three members of the Panel. The first is now full time. The chairman, Mr. Bröder, is full time. The other two, Mr. Umaña and Mr. Bissell, are technically not full-time, but could become full-time depending on the workload of the Panel. We expect that they will very quickly be full-time.

Mr. WATT. I think I will quit, Mr. Chairman.

Chairman FRANK. Thank you. I thought that was a very useful line of questioning.

What I would like is, if you could just submit, if the Bank would give this to you to submit to us, an organization chart of where you would go with the appeal. You gave us some names, but it would be good for us to have the titles, too, what Mr. Adams' title is, just what that chart looks like.

Ms. LEVINE. Sure.

Mr. WATT. There is no recourse beyond the Panel?

Chairman FRANK. Us.

Mr. WATT. We don't have jurisdiction over these institutions.

Chairman FRANK. No, we have jurisdiction over the money.

Ms. LEVINE. And there is always the Board of Directors.

Mr. WATT. I apologize for being so basic about this, but if in fact this is in some measure precedent setting, as Mr. Zaelke has indicated, it seems to me we need to be step by step analytically understanding what these processes are, if this is the trial run and we are going to take it and translate it over to NAFTA and GATT and all these other processes.

Do you agree that this is precedent setting?

Ms. LEVINE. Absolutely. And by the way, that is why implementation is the toughest part of this.

Chairman FRANK. Let me say, the gentleman should not apologize. These questions, we should have asked them earlier. This shows people undervalue sometimes what a lawyer's mindset can do. In this case, it was important.

Mr. WATT. Is that a lawyer's mindset? Thank you, Mr. Chairman.

Chairman FRANK. Mr. Bereuter.

Mr. BEREUTER. Mr. Chairman, I have two things I wanted to make sure the record reflects.

First of all, Mr. Castle, who is a member of this subcommittee who participated all the way through the debate on H.R. 4587, which is our authorization bill for the MDBs, had to leave 5 minutes before the end of the markup. He left a proxy which specified that he wanted to be voted in favor of the legislation, but it was inadvertently mislaid here. I wanted to make the statement that it was his intention that his proxy be voted aye.

Chairman FRANK. We will make sure the record reflects that.

Mr. BEREUTER. Thank you.

Mr. Chairman, very importantly, for anyone in attendance here, especially members of the news media, I think there may be some confusion about the testimony or comments, ad lib comments, perhaps, of Mr. Kasich in one respect, and he is repeating something that I think deserves to be clarified.

The Wapenhans Report, it was said, shows that there are 37 percent nonperforming loans. And that is very misleading. Nonperforming loans have special meaning for members of the Banking Committee who have oversight over a variety of financial institutions like the RTC. And nonperforming to us means that they are financially not meeting their loan repayments.

Now, that is not the case with respect to almost all of the 37 percent of loans that are listed as being by some nonperforming. In fact, what it means is that the loans are not performing up to the standards that the World Bank had established, that they are not—and in few, if any, of those loans are they in financial default or not meeting their repayment schedules. It is simply that they are not performing up to the standards planned or expected by the World Bank. But they are being made, and it is a positive statement.

So it is a very different situation than saying there are 37 percent that are nonperforming. In fact, there are few, if any, loans that are nonperforming in a financial sense, in the usual sense that the Banking Committee uses that term.

Thank you, Mr. Chairman.

Chairman FRANK. That is a very important clarification.

I appreciate this. We are going to be talking more about this among ourselves, and I thank you all for participating. The hearing is adjourned.

[Whereupon, at 11:45 a.m., the hearing was adjourned.]

# APPENDIX

STATEMENT BY THE HONORABLE JOHN R. KASICH BEFORE THE SUBCOMMITTEE ON INTERNATIONAL DEVELOPMENT, FINANCE, TRADE AND MONETARY POLICY

JUNE 21, 1994

Mr. Chairman, Mr. Bereuter:

I would like to commend you for holding this oversight hearing and for your work to reform the multilateral banks. Although there is still a long way to go, I am pleased that the World Bank appears to be moving toward greater accountability. Much of what is now being discussed is consistent with proposals that I have worked on and support.

Mr. Chairman, many Americans have deep misgivings about U.S. foreign aid programs. With repeated reports of corruption, waste, and mismanagement, they understand that efforts to bring relief, prosperity, and security to impoverished peoples in other countries have gone seriously wrong. For this reason, I believe that Congress must move quickly to achieve meaningful reform.

Several years ago, former Representative John Miller and I decided to evaluate all of our foreign assistance programs. When John Miller left the Congress, I continued this project as one of my top legislative priorities.

Over the past several years, I have met with many thoughtful people who supported foreign assistance, but who were becoming increasingly frustrated and concerned about the ineffectiveness of our aid programs. These people included former bank employees, as well as individuals from the environmental, human rights, and development communities.

They told me about the bank's many shortcomings. These shortcomings can be broken down into four areas: (1) environmental destruction, (2) forced resettlement, (3) administrative costs and (4) making loans that did not meet the bank's own standards.

Based on these discussions, the revelations in the Wapenhans Report and the Morse Report on Sardar Sarovar did not come as a surprise.

I became particularly concerned by the apparent inability to modify or terminate harmful projects early in the planning process, before any harm was done. Mr. Chairman, you may recall that during the mark-up of the President's FY 1994 budget in the Budget Committee, I read from a Time magazine article titled "Good Intentions, Woeful Results." The article allowed that an ambitious environmental program at the World Bank ended up damaging the tropical rain forest. This should not occur.

To address these problems, we worked with our colleague Tom Ridge, a Member of the full committee in June, 1992 to strengthen H.R. 3428. Mr. Ridge offered six amendments on our behalf. We called, for example, on each bank to make available timely and useful information concerning projects, and to work with affected people in designing projects. We called for the development of strict environmental standards. And we sought to establish a truly independent body in the banks to perform oversight responsibilities.

Last year, as part of the Foreign Operations, Export Financing, and Related Programs Appropriations Bill, Congressman Chris Shays and I offered an amendment withholding funding for the World Bank. We took this step after meeting with former bank employees who stated this was the **only** way to get the bank's attention concerning the need to reform. The fact that I am testifying before you today seems to indicate that our action, coupled with your actions, Mr. Chairman, have moved this issue.

As you know, Mr. Chairman, the amendment came within 6 votes of passing. Because of our tough-minded approach, however, Treasury had the leverage to say to the Bank that the Congress was serious about reform.

Mr. Chairman, much has changed at the Bank since that amendment was offered. First class travel has been greatly restricted and the Bank has moved to control its administrative costs. The bank has adopted a new disclosure policy, and has established an independent inspection panel to address concerns about the Bank's policies and procedures. I must commend the Bank for their good faith effort. They have taken the **first** step toward reform.

Unfortunately, much more remains to be done. It is one thing to announce a change in policy; it is another thing to actually **implement** needed reforms. Changing the culture and operations of a large institution will require the strong and continued commitment of bank officials, officials at the Department of the Treasury, and the Congress. It has been my experience, and probably yours as well, that bureaucracies tend to be fairly resistant to change.

Probe International, a Canadian-based environmental group, has sent me material criticizing the early implementation of the new disclosure policy and the accountability of the independent inspection panel. In a May 17 letter, they indicated that they are going to focus on these issues over the next year. I plan to follow their work very closely.

Likewise, I believe it is important that Congress create a process to monitor the implementation of the reforms. The reforms should not be taken as trivial procedures by the Bank. They must permit broad access to information by outside groups. The review panel must be truly independent. And both of these reforms must be implemented so that harmful projects, like the ones I mentioned earlier, can be either dropped or restructured early in the planning stage.

I have been involved in several inter-related activities that should assist Congress in monitoring the reform process. First, during the debate on the FY 1995 Foreign Operations Appropriations Bill, I offered an amendment to "fence off" the requested FY 1995 **increases** for the International Development Association (IDA), the International Finance Corporation (IFC), and the Global Environmental Facility (GEF). Until the problems with environmental destruction, forced resettlement, administrative costs, and non-compliance with the Bank's own standards are corrected, it is not appropriate to provide funding increases.

My amendment prevents the obligation of these funds until April 1, 1995. At that time, the Congress will have the opportunity to review and evaluate the progress the bank is making.

To assist with that evaluation, I have asked the General Accounting Office (GAO) to monitor the performance of the Bank, and provide a snapshot assessing the implementation of the reform proposals prior to April 1, 1995. In fact, I will be meeting with Mr. Bowsher tomorrow afternoon to discuss this very issue.

I plan to ask him for a long-term commitment to look at not only the World Bank, but also the Regional Development Banks and the International Monetary Fund (IMF).

If these institutions are not committed to implementing the reform proposals, if timely and useful information is not being made available, if harmful projects continue to move forward, the Congress can and should withhold future funding. Doing sc would, I believe, send an unmistakable signal to both the U.S. Department of the Treasury and the Banks.

I would also like to offer a suggestion to the environmental, human rights, and development groups (especially those who will testify today) who are interested in these reforms. Your work to expose the problems within the bank has been essential. Over the next year, I would strongly encourage you to let Members of Congress know whether the Bank is implementing its promised reforms.

In closing, I would like to underscore a very important point. The fact that we have bipartisan agreement on how to reform the Bank indicates that this is not a partisan issue. It indicates that a consensus is forming in Congress. It indicates that failure to implement reforms will have significant consequences.

Thank you, Mr. Chairman.

As Prepared for Delivery
Adv. 10:00 a.m. DST
June 21, 1994

STATEMENT OF
TREASURY DEPUTY ASSISTANT SECRETARY
SUSAN B. LEVINE
BEFORE THE SUBCOMMITTEE ON INTERNATIONAL DEVELOPMENT,
FINANCE, TRADE AND MONETARY POLICY
OF THE HOUSE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Mr. Chairman, I want to thank you for the opportunity to address your subcommittee. You have asked us to testify on the implementation of the World Bank's new initiatives on information disclosure and on the establishment of the Inspection Panel. Before commenting on the implementation, I believe it is important to stress that the adoption of these initiatives, which occurred less than one year ago, is a great accomplishment. The leadership exercised by this committee, in close cooperation with Treasury and non-governmental organizations, was essential to these efforts.

And while we well know that there have been problems in implementation, we quite frankly expected this. These new initiatives will bring a dramatic change to the culture of the development banks. Such change does not come readily. Today I know you will hear a number of complaints about problems in implementing these new initiatives I will touch on some of those myself. However, it is premature to draw conclusions on their success, based on the short history to date. What is clearly important is that the Bank has adopted these initiatives and is in the process of implementing them. I have assurances from the highest levels of Bank management that they are committed to this process.

In this context Treasury is working to make sure that the Bank develops clear guidelines for staff to assist them in implementing the Bank's policies. I will spend some time in my testimony discussing what steps management is taking, and what steps we will encourage it to take, to ensure that these ground-breaking initiatives will be implemented.

Our discussion needs to be divided between the information policy, which has been in effect since August 26 of last year, and the inspection panel, which will not be operational until this August 1. I will therefore first discuss the information policy.

The information policy states that "there is a presumption in favor of disclosure, outside and within the Bank, in the absence of compelling reason not to disclose." The challenge facing an institution such as the World Bank, which engages in ongoing sensitive negotiations with governments, will be to manage the dynamic tension between the "presumption in favor of disclosure" and the "compelling reason not to disclose." Some of the things the Bank is doing or has plans to do we expect will mitigate this tension.

To facilitate access to information, on January 1 of this year the World Bank opened its Public Information Center at its Washington, D.C. headquarters, as required under the new disclosure policy. The information center issues monthly a "Complete List of Documents" which specifies all documents available and describes how to obtain them. While the NGO community had the greatest interest in the successful adoption of an information policy, it is noteworthy that the majority of users of the Public Information Center have come from the private sector. Businesses interested in World Bank contracts have recognized the value of having information early in the project cycle. In its first five months of operation, the Public Information Center received over 5400 requests for information from visitors, by telephone, mail, and fax, and via the Internet.

In addition, the Bank has set up information centers in London and Paris; a center in Tokyo is expected to be fully operational by the end of this month. World Bank resident missions in borrowing countries also serve as contact points for information. Increasingly, documents will also be available on-line, through the Internet system. We think this is an exciting opportunity and we hope to expand this trend dramatically. Already, certain early project information documents (the PIDs) can be accessed electronically for all projects in preparation. There have been 322 electronic inquiries through May 31.

We know that there have been some difficulties in getting information from the Public Information Center. In a number of cases, information has been placed in the information center late. This can preclude fully-informed public consultations at a point in the project cycle when they could have a substantive impact on the project. In our work with management, this point is a priority for improvement.

Regarding the Project Information Documents, it must be remembered that these documents did not exist prior to the adoption of the new disclosure policy and must now be written for all projects. At this point, I am comfortable that these documents are in place in the center. The focus now should be on ensuring that they have adequate coverage and quality. I urge the NGOs to assist us in determining where serious gaps in substance exist.

The main issue we seem to face with implementation is difficulty in determining what information is to be released on projects which the Board has not yet approved. Some requests for factual technical information on projects under preparation have been refused, we think at times incorrectly. Management has advised that the information

center staff will start providing names of contacts for those seeking additional information not filed in the information center.

To a large extent, the non-release of certain types of "factual technical information" comes from ambiguity in the information policy itself. We are currently working with Bank management to clarify this.

As you may recall, there were serious efforts by NGOs to have the bank make available the early versions of the appraisal reports, the so-called yellow and green cover staff appraisal reports. This was not supported by most of the Board. The U.S. took a strong position in the negotiations that if the entire document could not be released, because of potential sensitive judgements or other information that might impinge on loan negotiations, then certainly the factual technical information which provided the basis for these reports should be released. We succeeded in convincing management and the Board that all non-judgement information, that is so-called factual technical information, should be made available.

The rationale for this seems clear to us, namely that informed consultation can happen only if those being consulted have adequate information. Bank policy clearly states that such factual technical information should be made available. I quote from the policy itself: "There will be instances where the availability of factual technical documents on projects under preparation can facilitate consultation. In such cases, upon request for additional technical information about a project, the Country Department Director responsible will, after consultation with the Government to identify any sections that involve confidential material or compromise Government/Bank interactions, release factual documents, or portions thereof, that provide inputs in the project preparation."

The problem, of course, which I am sure will be highlighted by others on the panel, is that many Bank managers have so far resisted providing the factual technical information on which early project documents are based. I should point out that the requests the Bank has received for factual technical information have often times been much too broad-based. I would advise those seeking information in the future to be specific about the nature of the information that they are seeking (for example, background of the implementing agency, alternative energy analyses, etc.).

It is my view that many of the problems will be addressed as the Bank produces its guidelines for the release of early project documents.

The Bank has already made progress in developing such guidelines. After going through several months of glitches in implementation - the Arun hydroelectric project in Nepal is perhaps the best-known case where information did not flow on a timely basis - senior Bank management issued several advisories to staff about the need to implement successfully the information policy. The latest, dated June 10, advised Country Department Directors that "Since the Disclosure Policy emphasizes that the Bank has a presumption in favor of disclosure, I urge you to encourage staff to be as constructive and transparent as possible in responding to requests for documents, particularly in regard to factual technical information. It is critical that the Bank live up to all the commitments contained in the new policy....Because determining release of factual technical documents has proven to involve a set of difficult judgements, we are currently preparing an Operational Memorandum setting out in more detail the Bank's procedures for dealing with requests for such information."

I believe that management is working to set the right tone and process for this policy. Management will have to continue to be vigilant in seeing that its policy is implemented. These guidelines will hopefully resolve outstanding issues and facilitate full implementation.

I do want to point out that while there have been lapses in the implementation of the new disclosure policy, increased access to information has begun to serve its most important purpose, which is to enhance beneficiary participation in the development of Bank projects. This is complemented by other work underway to ensure beneficiary participation in project identification, development, and implementation.

Turning to the World Bank's Inspection Panel, I am pleased to note that it will become operational on August 1. The creation of such a panel has been heralded by many, including NGOs, as a remarkable advancement. Members have been selected: they are Ernst-Gunther Broder (Germany), who will be chairman, Richard Bissell (U.S.), and Alvaro Umana Quesada (Costa Rica). Mr. Broder brings to the Panel extensive institutional experience from his work at the World Bank, the Kreditanstalt fur Wiederaufbau (Germany's foreign aid agency), and the European Investment Bank. Mr. Bissell has an extensive background in the academic and development fields. Mr. Umana brings to the Panel an impressive history of involvement in environmental issues; among his most recent accomplishments, he was responsible for the independent evaluation of the Global Environment Facility.

The Panel's budget ($1.5 million for FY95) has been set. The Panel has an Executive Secretary, who is a lawyer and is in the process of drafting administrative guidelines for the Panel. The Panel itself, however, will have final approval of the administrative guidelines. I have early assurances that the Panel understands the importance of consulting with the public on the administrative guidelines.

Some have expressed doubts about the Inspection Panel's independence, accountability, and potential effectiveness. I believe, however, that as long as the spirit, as well as the letter, of the resolution establishing the Panel are adhered to, it will fulfill its important purpose.

As we have seen from implementation of the information policy, it is important early on to set the right tone for how the panel will conduct its business. The panel has clearly been set up as the last stop, not the first stop in bringing complaints to the Bank. And we expect that there will be very clearly defined procedures for bringing complaints to the Panel. Complainants must first attempt to resolve their complaints through normal communication with the Bank. However, we believe it will be very important that potentially aggrieved parties not be prevented from bringing complaints to the Panel. And therefore we will urge the Panel to be liberal in determining who has standing to address complaints to it.

As we move into the next phase of implementation of the Bank's initiatives on information policy and the inspection panel, Treasury will continue to monitor progress closely. As you have already seen, we are strongly committed to these initiatives, and know they must be successfully implemented. We appreciate the close partnership of this committee and the NGO community in working with us to realize the successful implementation of these initiatives and look forward to the continuation of this partnership.

STATEMENT OF LORI UDALL

ON BEHALF OF

INTERNATIONAL RIVERS NETWORK
FRIENDS OF THE EARTH
BANK INFORMATION CENTER
ENVIRONMENTAL DEFENSE FUND
GREENPEACE
SIERRA CLUB

REGARDING THE WORLD BANK'S INFORMATION POLICY
AND INSPECTIÓN PANEL

BEFORE THE SUBCOMMITTEE ON INTERNATIONAL DEVELOPMENT
FINANCE, TRADE AND MONETARY POLICY

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

UNITED STATES HOUSE OF REPRESENTATIVES

JUNE 21, 1994

**I. Introduction**

Thank you for the opportunity to testify before the House Banking Subcommittee on International Development, Finance, Trade and Monetary Policy. I am Lori Udall, Washington Director of International Rivers Network (IRN). Today, I am testifying on behalf of IRN, Friends of the Earth, Bank Information Center, Sierra Club, Greenpeace, and the Environmental Defense Fund.

For the last ten years our organizations have worked with a network of NGOs worldwide who are trying to reform the projects, policies and programs of the World Bank and other multilateral development banks. This is part of a global NGO movement to promote development alternatives which are socially just and environmentally sound. At the heart of the campaign to reform the World Bank is an attempt by citizens groups, NGOs and local communities to force the Bank to become more publicly accountable and transparent in its operations. Around the globe, World Bank projects and programs have been planned and designed in secrecy with little opportunity for public input or scrutiny. In the Bank's borrowing countries, local communities that are directly affected by Bank financed projects have often been denied access to the most basic information, particularly at the time that it is most crucial--at the stage of project planning and design. At the same time, taxpayers in the World Bank's major donor countries whose money supports and underwrites the Bank also have little knowledge of how their money is being used.

The lack of timely information about World Bank projects, among other things, has contributed to a growing number of unsustainable and unsound projects. The most famous of these is the Sardar Sarovar (Narmada) dam and power project in western India. The grassroots opposition to Narmada is rooted in support of the basic human right of indigenous and rural poor people to have control over their own future and development underpinned by democratic processes. Narmada has come to symbolize worldwide a destructive and outdated development model which is still being promoted by the World Bank.

Over the last ten years, NGOs in the Bank's donor and borrower countries who share a common vision of community-based development have forged partnerships to force major changes in the World Bank. NGOs believe that if project planning and design were open and transparent, and if there were mechanisms to challenge projects, fewer disastrous projects would be approved and a greater opportunity to promote alternatives would exist.

Last year, many of our organizations testified before this Subcommittee that we were opposed to a three year authorization of the U.S. contribution to IDA ($3.7 billion) because despite public pressure on the Bank to increase access to information and public accountability, concrete reforms had not been put into practice.

Under pressure from donor governments, NGOs, and the U.S. Congress led by this Subcommittee, in August and September 1993, the World Bank Board of Executive Directors approved a revised information policy and a resolution establishing an Inspection Panel. We would like to thank you for the crucial role this Subcommittee has played in these developments and we hope the Subcommittee will continue to vigorously monitor and influence implementation of the reforms.

My testimony today will cover our analysis of the progress the World Bank has made in implementing the new information policy and establishing the Inspection Panel, as well as setting out recommendations.

**II. The World Bank's New Information Policy**

**A. Background**

The battle over access to information is underscored by the need for people to have a voice in their own development and control over their own lives and future. While the World Bank has stated its public commitment to public participation in its projects and policies, community participation in development decisions and planning is meaningless without access to basic information, especially information on a timely basis.

Since 1989, the World Bank has had an information policy that states the general principle of the **presumption in favor of disclosure of information in the absence of a compelling reason not to disclose.** Despite this presumption, in practice the Bank has consistently restricted almost every type of document regarding Bank projects, policy based lending, economic programs as well as much environmental and social information. Attempts to gain access to information by the public and particularly by people directly affected by Bank projects and programs have been and are being met with arbitrary refusals and red tape. While there may be reasonable grounds to restrict a small body of documents which contain confidential or sensitive information about the Bank's borrowers, most information has not been legitimately withheld.

In many cases, the failure to disclose information on a timely basis resulted in a total lack of local consultation and public participation at the project level, ill-conceived and poorly planned projects, and deteriorating project quality. Intense local opposition to projects such as Narmada, the Kedung Ombo Dam in Indonesia, the Pak Mun Dam in Thailand, and more recently, the Arun III Hydroelectric Project in Nepal is a stark reminder of this problem. Intense and growing public pressure from local and international NGOs, donor governments and legislators resulted in the World Bank finally agreeing to reassess its information policy and in October 1992, the Bank convened an internal working group to study and make recommendations regarding proposed revisions to the information policy.

In March 1993, the working group issued weak recommendations regarding changing the policy which would have little practical effect at the project level in increasing transparency or openness. However, inside the working group, a dissenting group of Bank staff issued an "alternative view" which recommended far-reaching changes in the Bank's policy. If followed, the alternative view would have resulted in the timely release of almost all project documents and all environmental and social information. The alternative view recommended the public release of project documents such as the initial executive project summary, the executive project summary, and green and yellow cover staff appraisal reports. According to the alternative view, the small amount of confidential information contained in those documents could be instead put in the Memorandum to the President or the final Executive Project Summary.

In spite of this, the mainstream working group recommendations formed the basis for the policy revisions which were sent to the World Bank's Board of Executive Directors and eventually approved on August 1993. The one provision in the new policy on **factual technical information** which was promoted by the U.S. Treasury in the Board was, at the time, an attempt to incorporate some of the alternative view proposals, particularly the release of early World Bank project documents.

The two documents that describe the new information policy are Bank Procedures on Disclosure of Operational Information (BP 17.50), and a booklet issued by World Bank external relations entitled "Policy on Disclosure of Information". My testimony on **factual technical information** refers to implementation of point 5 in Bank Procedures (BP 17.50) which are mandatory procedures for Bank staff.

### B. Implementation of New Information Policy

#### 1. Public Information Center

The Public Information Center (PIC) has been open since January 1, 1994. Since the policy is not retroactive, the only information available in the center are on projects which were approved after October 1, 1993. The main documents available from the center are Project Information Documents (PIDs), Environmental Assessments, Environmental Analyses, National Environmental Action Plans, final Staff Appraisal Reports, Environmental Data Sheets, Precis (summaries of project evaluation reports), final Country Economic and Sector Work Reports; and loan and credit agreements. More detailed factual technical information is not available from the PIC, but should be available upon request from the country director or task manager.

The information available in the Public Information Center is also supposed to be available from the World Bank Offices in Paris, London, Tokyo and in field offices. Information on projects and programs in specific countries is sent only to the relevant country field office.

**2. Availability of Information In Borrowing Countries**

NGOs in the Bank's borrowing countries are supposed to be able to obtain information on projects and programs from field offices in the country in question. If the information is not available in the field office, then the field office is supposed to order it from the PIC. Reports from India and Indonesia indicate that this is not occurring. Instead NGOs are getting referred to the PIC in Washington. The Bank needs to inform its field offices about the new information policy and how to handle requests for information. It would be most effective if information officers were placed in each field office. It is critical that people in borrowing countries get timely information about projects.

**3. Timeliness in Answering Information Requests and Making Documents Available in the Public Information Center**

There is evidence that information requests are not being handled in a timely manner. Attached for the record is a series of correspondence between NGOs and the Bank on the **Nepal Arun III Hydroelectric Project** (see Appendix III and discussion below) and the **Mexico Northern Border Environmental Project** (See Appendix II). In both cases, repeated requests for information were either denied, delayed or responded to improperly. The timely release of information is critical in order for affected people and the public to have a voice in the design and planning of projects.

**Mexico Northern Border Environmental Project--the need for timely responses to information requests.**

Following is background and a brief chronology of events supplied by Bank Information Center:

**Background:** The Northern Border Environment Project is a $368 million loan to Mexico to strengthen institutional management of hazardous materials and to improve environmental services linked to sector-wide programs at the national level. The project was assigned an environmental category "A" which would require a full environmental assessment (EA) to be completed, with public consultation and access to the EA. However, instead of conducting an EA, the World Bank and Government of Mexico decided that the EA requirements were "covered" under other proposed World Bank projects (The Second Solid Waste Project, Water Supply and Sanitation Project and a Transportation Project). Two of these loans were not category A, which means full environmental assessments were not completed. The relationship between the EA for the Border Project and other loans was not readily apparent to NGOs who were looking for information about the Border Project.

**Chronology**

1) In February 1994, the Texas Center for Policy Studies (TCPS) began requesting information about the Border Project and the Solid Waste Management Loan. The first request for the EA was by phone from Cyrus Reed of the TCPS to Jegajothy Vythilingam of the PIC. TCPS received a copy of the PID, but not the EA. In a follow-up letter to the World Bank dated February 15th, the TCPS again requested the EA and received no reply (See Appendix II).

2) On March 18, 1994 the TCPS again sent a request to the Public Information Center and the center responded stating "The documents you requested do not seem to be readily available, but we are locating them" (attached in Appendix II). On May 18, less than one month prior to the Board date, the PIC faxed a letter to the TCPS stating that the EA had been sent.

3) On May 25th, Bank Information Center sent a request to the country department for early project documents such as the initial executive project summary, the executive project summary and the yellow and green cover staff appraisal reports (Appendix II). On May 31st, the Bank responded by sending the PID which did not contain a sufficient amount of information about the project. The Bank Information Center repeated the request and since then has not received a reply (Appendix II).

4) On June 1st, 30 environmental and public health NGOs from Mexico and the U.S. sent a letter to Executive Directors asking for a delay in the Board vote until there was adequate public consultation with access to information. The Bank's response dated June 7th, (but not received until June 14th after the project was approved) stated that the EA had been in the Public Information Center since February 2nd and other documentation had been available in Mexico City at a location accessible to the public. The Bank had not previously indicated the availability of the information in Mexico, nor had NGOs been able to obtain the EA in the PIC in February. NGOs were also not aware that the EA for the solid waste loan applied to the Border Project.

The Border Project task manager later admitted in a press interview that "public access to documents had been difficult" and apologized "for the problems that they have had in getting documents. I personally found the document in the Public Information Center but with difficulty" (Appendix III).

As underscored by NGO requests on the Border Project, the issue of timely release of information is critical if the Bank is serious about public consultation and local involvement. **It should not be a mystery concerning how to obtain information from the Bank, nor should answers to requests be delayed until just before the Board date.**

**Early Availability of Environmental Assessments**

There is evidence that EAs are not sent to the PIC or available in the field offices in a timely manner. Some EAs have not been available until the project has reached the negotiation stage, which is far too late in the project for public input. For example, in the $256 million IBRD loan to the Indonesia Outer Island Power Project, an EA was completed in April 1994, but was only released from the PIC in late May 1994 and the Board date was in early June. This does not allow enough time for public input and consultation.

**4. Project Information Documents (PIDs)**

The Bank's Information policy creates a new category of document called project information documents (PIDs). PIDs should contain the same information as early project documents such as the initial executive project summary and final executive project summary. When it is first created a PID should contain information on the main elements of the project, including the project's objectives, expected or probable components, costs and financing, environmental issues, status of procurement and consulting services, studies to be undertaken, implementing agencies and relevant contact points.

PIDs are supposed to be expanded and updated as the project progresses. However, many PIDs we reviewed contain only the most basic information about a project and most are not updated or expanded even as the project progresses towards appraisal. This mean that local people interested in having input in or challenging project planning and design have very little information to work from. This type of document is not useful to cultivate public involvement. Some of the PIDs we reviewed do not even include the location of the project or who the contact person for the project is. The PID for the Nepal Arun III Hydroelectric Project is an example of how information contained in the PID is not sufficient for NGOS who are interested in promoting alternatives.

**Arun III PID**

The PID for Arun III was prepared on January 24, 1994 and has not been updated since then, despite the fact that the project has progressed to the green cover appraisal stage. The Board date for the project is now set for July 26, 1994. Despite a high level of interest by Nepalese and international NGOs in the project, the PID contains only the most basic information. The Arun III PID does not contain precise information on where the project is located, nor does it list a contact person in the Bank.

**The Arun III PID does not contain any of the following critical information:**

1) background description of the country, region or the Arun Valley;

2) justification for Bank involvement;

3) background on the sector and sector strategy and how this project fits into the overall planning for the energy sector in Nepal;

4) information on project sustainability or lessons from previous experience of large scale dam projects in Nepal;

5) information on the Arun Valley and its unique ecosystems;

6) information on the 450,000 indigenous people living in the Arun Valley;

7) information on project benefits or risks;

8) project alternatives which were considered; or

9) a discussion of issues and actions.

**5. Factual Technical Information**

Under the new policy there has been very little release of factual technical information to NGOs. To date, one of the main barriers to obtaining project information before project approval is the failure of Bank staff to adhere to provision 5 in Bank Procedures 17.50. **The provision reads as follows: "If an interested party requests additional technical information about a project under preparation, the country director (CD) releases factual technical documents, or portions of such documents, after consulting with the government to identify any sections that involve confidential material or that could compromise relations between the government and the Bank".**

This provision was meant to provide interested people with more factual technical information between the time the Project Information Document (PID) is released and project approval, when the final staff appraisal is released. While the project is in preparation is an important time for NGOs and affected party to have input in the design or promote alternatives to the project.

The provision, which is based on the alternative view mentioned above, is seen by NGOs as the main avenue for information about projects in preparation other than the Environmental Assessment. Without the information contained in early project documents and their annexes, public participation in project planning and design can

only be superficial. Public scrutiny and debate about a project is also less likely. Yet the way requests are being handled under the provision has not set a good precedent for information release. Attached for the record in Appendix II is a series of correspondence between NGOs and the Bank on several projects, including the Mexico Northern Border Environment Project, Indonesia Java Water Management, Indonesia Integrated Swamps, and Indonesia Dam Safety, and the China Liaoning Environment Project. This is only a selection of the requests which were rejected; we are continuing to receive evidence from NGOs and we are awaiting documentation on request rejections from NGOs in the Bank's borrowing countries.

NGOs have been denied technical information contained in World Bank early projects documents such as executive project summaries, and green and yellow staff appraisal reports and their annexes, feasibility studies, baseline data and studies on alternatives.

To date, guidelines have not been issued to Bank staff on how to handle requests under this provision. As a result, requests under the provision have been dealt with in a broad range from blanket refusals, referrals to the public information center, or no response at all. Unfortunately, this has resulted in the **unequal treatment of those requesting information and the unequal application of the presumption in favor of disclosure. It also constitutes a failure to release information at critical stages of project planning.**

We have reviewed a set of draft guidelines which were issued on June 3, 1994 by James Adams, and we believe they are completely inadequate because although they do allow the release of some technical information, they do not allow the release of any early World Bank project documents or portions of documents, which are also covered under provision 5. There is very little, if any, confidential information in these documents as was recognized by the authors of the alternative view. Nor is there a compelling policy reason to withhold the information. Information which is confidential should be excised and the rest of the document and annexes should be released. **We would like to emphasize that the Report of the Committee on Banking, Finance, and Urban Affairs that accompanies H.R. 3063 which authorized the U.S. contribution to IDA for two years, clearly states "in evaluating the experience with the new policy, the committee would expect to find that technical information from draft staff appraisal reports is being routinely and uniformly released upon request".**

**Factual Technical Information--The Case of Arun III**

The recent developments around the Nepal Arun III project underscore that information access is essential to public participation in project design and planning and without it the Bank can only pay lip service to public and NGO involvement in

its projects. The Arun Hydroelectric Project also underscores the urgent need for Bank management to release early project information through provision 5.

For at least two years, local Nepalese and international NGOs have been opposing the Arun project as currently designed. NGOs such as Alliance for Energy (Nepal) and Intermediate Technology (IT) have proposed alternatives to the project which they believe are much more appropriate for Nepal's long term energy needs, and which focus on plans that develop the country's existing capacity, both in the public and private sectors, move toward decentralization, promote local management and control of projects as well as provide electricity to local and rural people. These groups believe that Arun III is an unnecessary commitment for Nepal as the total project cost is $764 million which is one year's national budget for Nepal.

While Alliance for Energy and IT and others have put out their own studies and documentation, they were consistently at a disadvantage, because they had no access to World Bank documentation either on finances, alternatives or cost/benefit analysis. Accordingly it was difficult to counter the Bank's arguments that it had considered alternatives to Arun III, when all Bank documents on alternatives were withheld. Recently, the Bank did hold some discussions with NGOs who were promoting alternatives, yet the Bank continued even in those cases to withhold studies on alternatives and financial analyses of the project.

As the loan negotiations and the Board date grew closer, several letters requesting early project documents and alternatives, studies were sent to the Country Department and South Asia Vice-President from International Rivers Network (IRN) and Bank Information Center (BIC) (See Appendix III). Previous information requests had been sent by Nepalese groups but with no response. The letters requested factual technical information on Arun III such as initial executive project summaries, executive project summaries, green and yellow cover staff appraisal reports, analysis of alternatives and feasibility studies. After repeated information requests involving an exchange of six letters (see Appendix III) and denials from Bank staff, on June 9th, one day before a "briefing" on alternatives, the Bank released publicly a study on alternatives by Argonne National Laboratory with annexes and a short note entitled "Justification for Selection of Arun Hydroelectric Project". Other technical information requested related to the feasibility of the project has not been received, although a list of documents on file was sent to IRN.

The Argonne National Laboratory Report admits on page 35 of the report that compared to the currently designed program, alternatives have not been adequately studied:

"Several of the Projects exclusive to Plan B [the alternative analyses] have not been studied sufficiently to place them side by side in credibility to the projects that are further along in investigation."

When questioned about this in the briefing, Bank staff stated that some alternative projects had been studied, but they were vague about where the information on these was located. To illustrate the absurdity of the failure to release information--several times during the briefing when questions were asked, the task manager would look for his answer through the very document we had previously requested be publicly released--the green cover staff appraisal report.

The Bank now proposes to hold "consultations" on alternatives and other issues with Nepalese and International NGOs on June 28th. However, loan negotiations between the Bank and the Nepalese Government for the project have already begun and will be finished or nearly completed by the time of the NGO consultations. The Bank has already told NGOs that it is "unlikely" that they will take into account the evidence that NGOs are presenting. Consequently, NGOs view the consultation as little more than a public relations exercise, rather then a serious effort by the Bank to consider alternatives being proposed (see IRN Letter to Joe Wood, Appendix III).

**6. Retroactivity**

A majority of projects that NGOs are interested in--such as all projects which were approved before October 1, 1993--are not covered under the new information policy. Requests for these documents are handled on a case-by-case basis by the country director. They are handled in the context of the information policy that was in effect at the time the project was negotiated. This has resulted in the unequal treatment of those requesting information and an unequal application of the presumption in favor of disclosure. There should be a set of procedures for handling requests which are not covered under the new policy. This is particularly important because most projects and programs that are of concern to the public at this time fall in this category.

**7. Charges for Information**

A problem which has restricted access to information is the $15.00 charge on all documents currently available in the Public Information Center. Only Project Information Documents (PIDs) and Environmental Data Sheets are free of charge. Nationals of borrowing countries do not have to pay for information on projects and programs in their own country. However, all other NGOs must pay $15.00 per document. It may be reasonable to charge consultants and governments for documents, but many NGOs do not have the resources to pay $15.00 for every document they request.

One way to circumvent this problem would be to make all documents that are currently available in the Public Information Center also available on Internet. This way, people seeking information can simply retrieve it from Internet and print it in hard copy.

**8. Summary of Recommendations**

a. The Bank must ensure that the presumption in favor of disclosure of information is operationalized.

b. The Bank must ensure that all information covered under the new policy is released in a timely manner. Replies to information requests should be sent within 14 days.

c. The Bank should inform staff in field offices and in the Tokyo, London, and Paris offices how to handle information requests. Information regarding projects and programs in the Bank's borrowing countries should be readily and promptly available to the public in field offices in the relevant country.

d. All documents available in hard copy under the new information policy should also be available on Internet.

e. Project Information Documents (PIDs) must be expanded and updated as the project progresses. PIDs should contain the name, phone, and fax number of the contact person at the World Bank.

f. As the project progresses, PIDs should contain a list of all World Bank and country generated documents contained in World Bank project files.

g. The Bank must issue guidelines on releasing factual technical information which includes the release of early project documents or portions of documents such as the initial executive project summary, the executive project summary and green and yellow staff appraisal reports with all technical annexes. Draft guidelines should be circulated to the public for comment before becoming final.

h. The Bank must issue guidelines on the release of information not covered under the new policy. These draft guidelines should be circulated to the public for comment.

**III. World Bank Inspection Panel**

**A. Background**

On September 22, 1993, the World Bank Board of Executive Directors passed a resolution (Resolution No. 93-10) which created an independent inspection panel. The panel is empowered to investigate complaints from people directly affected by Bank projects regarding violations of World Bank policy, procedures and loan agreements. The only World Bank precedent for the inspection panel is the Morse Commission, an Independent Review Team which was established by Barber Conable (at the request of several Board members) in September 1991. The Morse Commission was

hired to investigate violations of World Bank environmental and resettlement policies and procedures, and loan agreements during the implementation of the Sardar Sarovar dam and power project in western India. Several Board members requested that the Morse Commission be set up because there was discrepancy between the information they were receiving from NGOs and grassroots activists about Sardar Sarovar and information from the Bank India operations staff.

The Morse Commission was viewed as independent and credible by the public, but for the Bank it was also a source of embarrassment because of its severe indictment of Sardar Sarovar, the Bank's appraisal process and a wide range of other Bank projects involving forcible resettlement in India. For Bank critics, the extensive findings of the Commission, as well as attempts by Bank management to misrepresent the findings in its response to Executive Directors, confirmed the need for a permanent independent mechanism. The Morse Commission established a precedent for a body operating independently from Bank management and Executive Directors, and working on an independent budget.

Much of our evaluation of the resolution and developments around setting up the panel is based on our experience with the Morse Commission and Bank management's interaction with Morse Commission members. If there is one lesson to be learned from that experience, it is the importance of the Commission's independence from Bank management and its willingness to openly and publicly confront the Bank with misrepresentations made to the Board. The October 13, 1992 letter from Bradford Morse and Thomas Berger to Lewis Preston is a good example (Appendix I).

The fact that the Morse Commission was independent was no accident. Aside from the fact that the members themselves were of an independent character, there were several features of the Commission that the members negotiated in the beginning which added to its credibility. A key element was an independent budget of $1.2 million which allowed the team an extensive travel budget and capability to hire consultants and researchers and support staff. Another key element was the fact that the report was published independently of the Bank and made available to the public at the same time it was made available to the Executive Directors and Bank management. The Morse Commission holds the copyright for the report. The Commission also had access to all Bank information on the project and the cooperation of all parties concerned including Bank staff, local NGOs, the Indian government, and international NGOs. The Commission was not based inside the Bank and after the terms of reference was agreed upon and a contract was signed, the Commission did not take instructions from Bank management or Executive Directors.

With the exception of having access to all Bank information, the Inspection Panel, as currently codified in the resolution, has almost none of the features of the Morse

Commission. The test of the panel will lie to a certain extent with the new panel members and their ability to establish a solid set of procedures and to maintain independence from Bank management.

On a positive side, the creation of the Inspection Panel is a step forward for the World Bank and a progressive advancement in international law. It is the first time any public international financial institution has created a mechanism to receive complaints from citizens' groups and affected people. It has also set an example for the regional development banks, who are establishing their own independent panels.

The panel is slated to be set up on August 1, 1994. This testimony will cover: A) shortcomings in the resolution B) recent developments since the resolution was passed, and C) recommendations for addressing shortcomings in the resolution and for establishing procedures.

**B. Shortcomings in the Inspection Panel Resolution**

The World Bank resolution provides a broad framework for an appeals process which allows NGOs, grassroots movements and associations, who are directly affected by Bank projects, to send complaints to an independent body for investigation. However, the Resolution as currently drafted is quite vague in many regards and also has major shortcomings which may ultimately affect the panel's independence and credibility.

**1. Executive Board Can Block a Claim**

The first area of concern regards the cases the panel chooses to investigate. Currently, there is an opportunity for Board members to block the panel from taking up a claim. After the panel receives a claim and management responds to the claim, it makes a recommendation to the Board about whether it wants to accept a specific claim. If a Board member objects to the panel taking up a claim, then the case is presumably taken up in the full Board. The Board can then decide that the case should not be taken up, thereby blocking it. This means that the panel ultimately does not have independence to determine what cases it will take up.

Since Board members from the Bank's borrowing countries often feel that scrutiny of projects is an infringement on their countries' sovereignty, many of these Board members will possibly object to cases which originate in their country being brought to the panel. As a result, decisions about whether to take up a complaint may not be based on the merits of the case itself, but on the whims or biases of individual Board Members. Depending on how the Board's involvement develops, this could adversely affect the independence of the panel. Other independent offices inside the Bank do not have this constraint. For example, the Operation Evaluations Department (OED),

which conducts independent post-mortem evaluations of Bank projects reports to the Board, but is free to make decisions about which Bank projects it will evaluate.

**2. Budget of the Panel is Limited**

The budget for the Panel is currently set at $1.5 million for FY95. Based on the actual experience of the Morse Commission this is a very small budget which will likely constrain the Panel in its activities and scope. The Morse Commission investigated only one project for a ten month period and spent $1.2 million. That budget was for four people, plus consultants, and extensive field trips. The Panel is likely to have several projects to investigate in its first year. Starving this new mechanism of funds will only ensure its failure. Panel members should not have to go back to the Bank for reimbursements after their funds have run out; the panel should also have a separate budget to publish its reports independently of the Bank. NGOs originally recommended that the annual budget should be at least $10 million.

**3. Public Release of Panel Reports is too Late**

Perhaps one of the most serious flaws in the current resolution is that there is no provision for the public release of the report at the time that the panel sends the report to the Board and Bank management. In fact, the report is not made public until 2 weeks after the Board considers it, which leaves little room for public input or scrutiny. The claimant also does not receive a copy of the report until after the Board considers it. This leaves room for Bank management manipulation or misrepresentation of the report. It also means that Bank management will be able to influence the Board with their version of events without the public knowledge of what they are saying or without the public or the claimant having any opportunity to influence the Board member representing their country.

The experience with the Morse Commission can illustrate the problem with this aspect of the resolution. In June 1992, the Morse Commission released its report to the Board of Executive Directors, Bank management and the public all on the same day. Shortly after the release, Bank management issued a response to the Board entitled "Next Steps" that completely misrepresented what the Morse Report said. Since the Morse Report was over 300 pages long, management safely guessed that no one on the Board had read the entire report. It was not until NGOs and members of the Morse Commission--through letters and a conference call--told the Board about the misrepresentations in the document, that 42% of Board members were influenced to vote for suspension of the project. All of this occurred even though the document was publicly released. The likelihood of misrepresentation or manipulation when the panel reports and management's response to reports are withheld from the public is clearly much greater.

One of the key avenues for NGOs to influence decisions at the Bank is to contact the Executive Director representing their country. Without knowing the outcome of the report there is no way for the public to interact on the issue. For the claimant, this lack of due process causes them to remain in the dark, both about the report and management's response to the report, until after their chance to influence the outcome or refute it has passed.

**4. The Role of The Claimant and The Public**

The rights and role of the claimant and the public in relationship to the panel are not clearly defined in the resolution. For example, the claimant should have a right to know what recommendation the panel sent to the Board regarding the claim. The resolution is silent on this issue. The claimant should also have a way of learning what Bank management's response is to the claim.

Additionally there should be avenues for public involvement in the claims process. For example, the panel should accept evidence or opinions from outside parties regarding whether a claim should be accepted or on the specific issues being investigated by the panel, similar to an *Amicus* brief filed with a court of law. The panel should also publicly release its recommendation to the Board about whether it will investigate a claim. This lack of clarity can be easily improved through a good set of procedures.

**5. Blocking Claims in Which the Bank's Legal Responsibility Still Exists**

Currently the resolution contains a provision which states that the panel will not accept claims which are filed "after the closing date of the loan financing the project with respect to which the request is filed or after the loan financing the project has been substantially disbursed" (page 6, point 14 (c). We believe this provision will result in blocking valid and relevant claims, particularly those in which the Bank's legal responsibility is still in effect. The best example of this is the Sardar Sarovar (Narmada) dam project. Mr. Ibrahim F.I. Shihata, World Bank General Counsel issued a memorandum in 1993 which stated that the legal agreements on the project between the World Bank and Government of India are still in effect. However, the Government of India is violating at least three sections of the loan agreement dealing with resettlement and rehabilitation of the affected people to be displaced by the project. As the waters rise behind the partially constructed dam, people in the villages closest to the damsite are threatened with losing their houses, crops and belongings as a result of the failure of the government to offer them rehabilitation consistent with the loan agreements. To date, the World Bank has not attempted to enforce its loan agreements, and as a consequence the affected people should have recourse to send a claim to the panel.

## C. Recent Developments

### 1. Nominations of Panel Members

The nomination process started in November 1993. Names of potential candidates were sent from a variety of sources to Managing Directors in Lewis Preston's Office. NGOs, donor and borrower governments, Executive Directors, Bank staff, and individuals sent in nominations and it is our understanding that over 100 names were collected. For a period of several months, the names of nominees were kept and considered secretly by the President's office and high level Bank management without releasing the names to the Board of Executive Directors or the public. From a practical standpoint, obviously it would be unreasonable to expect the Bank to publicly release all names they received. However, as the process developed and the list was narrowed down, the secrecy continued. Even when the nominee list had been narrowed down to under 15 names, neither the public or the Executive Directors could get the names. Finally, under pressure from NGOs, the Bank released the names to Executive Directors and thereafter NGOs received them.

This process was problematic for several reasons. Aside from the vague criteria in the resolution itself, there was no way of knowing what selection process or criteria was being used by Bank Management to sift through the names. There were several highly qualified nominees that were dropped from the list for no apparent reason. The nominations process which was just completed should not be repeated. Included in a set of procedures should be steps to make the nominations process more transparent, the selection criteria clearly defined, and include more involvement and interaction in the process of the Board and the panel.

Since the Panel's job will be to review the performance of Bank management in regards to specific actions and omissions regarding violations of the Bank policy, procedures and loan agreements, it seems highly unusual that management so tightly controlled the nomination process, or even had a stake in the final decision.

### 2. Attempting to Tamper with the Resolution

One of the key provisions in the resolution which helps to safeguard the independence of the panel is the provision which prohibits a panel member from ever seeking employment at the Bank after his/her tenure on the panel (point 10, page 4). This provision will ensure that decisions made and reports issued by panel members, particularly ones of a controversial nature, are not colored by an attempt to influence or impress Bank management while paving the way for future employment. Panel members should be unconstrained and uninhibited in their judgements and criticism of the Bank.

During the finalist stage of panel selection, one of the finalists expressed concern regarding the provision in the panel which imposes a lifetime prohibition on working at the World Bank. The finalist was hesitant to accept the panel position because he was interested in securing future employment with the Bank. Bank management then went to some Board members to query whether the resolution could be changed from a lifetime prohibition to five years. Aside from the obvious inappropriateness of management seeking to change the resolution, revising the resolution to accommodate the needs of any individual panel member would set a dangerous and unusual precedent. As a matter of policy it was an unfortunate development, and we question whether a person seeking future employment with the Bank is sufficiently independent and appropriate to serve on the panel. Ultimately, the resolution was not changed because several Board members expressed concern over changing the resolution at that time.

In principle, we are not opposed to revisiting provisions in the resolution at some point when the panel is established and there are clear procedures for changing the resolution (see draft procedures in Appendix IV). In order to maintain independence and integrity, proposals to change the resolution should come from the Board, the panel and the public, not Bank management. The Board should make the final decision to change the resolution.

**3. Setting up the Panel**

On April 22, 1994 the World Bank announced the three panel members approved by the Board of Executive Directors. They are:

1) Ernst-Gunther Broder, a German National who served as President of the European Investment Bank and as Governor of the European Bank for Reconstruction and Development. Broder is the Chairperson and will serve a five year term.

2) Alvaro Umana Quesada, a Costa Rican National, who was Minister of Natural Resources for Costa Rica and a member of the boards of several environmental and research institutes. Umana is appointed for four years.

3) Richard Etter Bissell, a U.S. National, who served for several years with the U.S. Agency for International Development, and has taught and overseen research at several American universities and research institutes, is appointed for three years.

Since the appointments, it has been announced that the Panel will be open and ready to receive complaints by August 1, 1994. There have been two developments which are a cause of concern to us. First the panel secretariat who is a Bank employee, Mr. Eduardo Abbott, from the legal department has been appointed not by the panel but by Bank management. We believe the panel should interview and hire its own staff

and that persons working for the panel should not be Bank employees or owe loyalties to the Bank. Secondly, we understand that Mr. Abbott is writing draft rules of procedure for the panel, which will then be circulated to the panel members. This process is an unnecessary interference from Bank management. If Inspection Panel members are to maintain independence from Bank management from the beginning then a task as important as drafting procedures under which the panel will operate should clearly be initiated and written by the panel. These developments should be clarified immediately and we urge this Subcommittee to monitor the development of the procedures closely.

**4. Weakening Bank Policies**

Although not directly related to the inspection panel, a recent development inside the Bank is the revision and shortening of Bank Operational Directives. Operational Directives are statements of Bank policy and procedures which Bank staff are required to adhere to. Currently the World Bank's Operations Policy Department is revising the system of operational policies and procedures. As part of the revision, existing Operational Directives will be replaced by three categories of documents:

A) Operational Policies: a short focused statement of policy;

B) Bank Procedures: a common set of mandatory procedures for Bank staff to observe; and

C) Good Practices: advisory material for Bank staff.

There is concern among NGOs, as well as among some Bank staff, that in the revision process, Bank policies and procedures are being weakened, and that stronger parts of the policies are being turned into good practices which are advisory material rather than mandatory procedures. This could result in claimants having far fewer standards to hold the Bank to and ultimately will greatly lessen the scope of Inspection Panel's mandate.

NGOs have spent the last several years, commenting on and improving environmental and social Operational Directives as they were being written, including the World Bank's resettlement, environmental assessment, and indigenous people's policies. We are deeply disturbed that the directives are now being revised. We strongly urge that when environmental and social policies are being revised, drafts be released to Executive Directors and the public for comment and input. We hope this Subcommittee will monitor this situation closely.

### 5. Recommendations

#### Transparency and Independence: The Key to Credibility

When setting up a mechanism to increase an institution's public accountability, it is critical that from its inception a process is established which is independent and transparent. Unfortunately, since the resolution was passed on September 22, 1993, many developments related to setting up the panel have not been transparent or independent of Bank management. Indeed, at times it seems that Bank management is intent on interfering in every small development.

In order to increase public confidence in the panel, panel members need to make it clear to the Bank that they are in charge and will take control of drafting procedures and accepting claims. Panel members should be as open, publicly accessible and transparent as possible in their operations. We urge this Subcommittee to monitor the developments around the establishment of the panel closely.

#### The Need for Clear Procedures

There is an urgent need for the panel to develop clearly stated, effective procedures which are user-friendly and help to overcome the weaknesses in the resolution. The panel needs to establish a clear set of procedures which define the following areas: 1) the nominations process 2) the role and rights of the claimant 3) the role and rights of the public 4) the process by which the panel will accept a claim 5) the panel's interaction with Executive Directors, and 6) revising the resolution.

Attached for the record are a set of draft procedures written by International Rivers Network and Center for International Environmental Law (Appendix IV). We are circulating these draft procedures to panel members and other interested parties. We believe that in developing their own procedures, panel members should interact with the public and receive comments from the public.

### III. Conclusion

Based on the evidence we have presented today, we urge the Subcommittee to continue to withhold authorization of the U.S. contribution ($1.25 billion) to IDA for the third year and to continue vigorous oversight of the implementation of the information policy and the creation of inspection panel in 1995. We thank you and the Subcommittee for your extensive work in these areas.

APPENDIX I

SARDAR SAROVAR PROJECTS

# INDEPENDENT REVIEW

Chairman
Bradford Morse

Deputy Chairman
Thomas R. Berger

Chief of Staff
Don Gamble

October 13, 1992

Mr. Lewis T. Preston
President
The World Bank
1818 H. Street, N.W.
Washington, DC 20433
USA

BY FAX

Dear Mr. President:

On June 18, 1992 we delivered the report of our Independent Review to you. This completed our task. As we said in our report, the future of the Sardar Sarovar Projects is for India to decide; whether the Bank continues to support Sardar Sarovar Projects is for the Bank to decide.

Nevertheless, we feel that we have an interest in seeing that our report is not misrepresented. We have been deeply concerned, therefore, on reading the *Review of Current Status and Next Steps* document, dated September 11, 1992, sent to the Executive Directors. We believe this *Next Steps* document, along with its Annexes, is misleading. It ignores or misrepresents the main findings of our Review.

Our report is extensive, detailed and technical. Given the many projects before the Bank, we cannot expect you or the Executive Directors to have the familiarity with the Sardar Sarovar Projects issues that we gained during the course of our work. But we do want to ensure that the senior decision-makers at the Bank are not left with an account of our findings that is at variance with what we wrote.

It would, therefore, be a disservice to you and to the Executive Directors to allow *Next Steps* to pass without appropriate comment.

Resettlement & Rehabilitation

The *Next Steps* document ignores our conclusion that the Bank's incremental strategy greatly undermines prospects for achieving successful resettlement and rehabilitation (for example, see our report p. xxiv and p. 351). This conclusion is central to our report and bears on many of its findings. *Next Steps* not only ignores our conclusion on the failure of the incremental strategy, but even seeks to enlist our report in furthering the strategy. We believe that unless the Bank recognizes the failure of its incremental strategy, the well being of tens of thousands of people will continue to be at risk.



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Our report pays careful attention to the very real differences between resettlement on the one hand, and rehabilitation on the other. A resettlement time table does not constitute a rehabilitation plan. This issue is disregarded in the *Next Steps* assessment.

This is not the place to go into the subject of resettlement and rehabilitation at length, but it may be useful to illustrate the way in which *Next Steps* purports to deal with resettlement issues without addressing the problem obscured by its incremental strategy, i.e., the Bank's failure to adhere to its own requirements as set forth in its Operational Directives and in the credit and loan agreements.

Gujarat: The Canal

*Next Steps* fails to make reference to the Gujarat government's reluctance to deal fairly with the problem of canal oustees. *Next Steps* says that "only about 24,000 will lose more than 25% of their land" (paragraph 2.07 and Annex I, p. 3); but 24,000 families comes to at least 120,000 people. To assess the nature of this problem, and how to deal with it, is not a question of doing a quick survey between now and March 31, 1993 and proposing that the new survey will be used to devise a sound policy. Appraisal of the canal impacts has not been done; it needs to be done and it will take time. Meanwhile, the impacts of the construction of the canal continues without adequate compensation for those displaced. This was our point, and it seems to have been ignored.

Madhya Pradesh: Land

*Next Steps* identifies some of the Madhya Pradesh problems of both policy and implementation. Madhya Pradesh is said to have come up with plans to deal with these problems. These include provision of one hectare of land to landless oustees and provision of money in controlled bank accounts that can only be used for land purchase. In this way, a basis for rehabilitation is supposed to be put in place, and the gap between Madhya Pradesh and Gujarat policies is said to be sufficiently narrowed.

Our report explains that one hectare of land is inadequate; in 1979 in India the Narmada Water Disputes Tribunal itself found two hectares to be a minimum (see, for example p. xv). Our report also points out that cash cannot provide alternative compensation. Madhya Pradesh has been reluctant to make land available for its oustees, if only because it hopes that they will go to Gujarat. Undertakings set out in *Next Steps* and designed to meet the Bank's concerns, offer no more land and indicates that the hope continues to be that Madhya Pradesh oustees who qualify for land will go to Gujarat. We believe that the gap between Madhya Pradesh and Gujarat policies is continuing, and that, as our report explained, this erodes the right to choice by oustees in Madhya Pradesh.

There are many other examples we could give of ways in which the resettlement and rehabilitation findings of our report are being misrepresented or disregarded in *Next Steps*.

Environment

*Next Steps* omits any reference to those parts of our report describing how the project continues to disregard the environmental requirements of both India and the Bank. Most of these have been in place for a decade or more. To continue to ignore these standards places the environment at risk. The risk becomes greater the further along construction proceeds.

It is a non sequitur to suggest, as *Next Steps* does , that delays in studies have not yet resulted in "dire ecological impact" or "severe environmental consequences" as implied

[sic] by our report. (paragraph 3.01 and 3.02) Of course, there has so far been no "dire ecological impact", and "no severe environmental consequences". The Sardar Sarovar dam has yet to impound any water and the canal is not yet functional. *Next Steps'* indifference to the proper place and utility of environmental work is astonishing, especially given the Bank's own undertakings as set out in the project documents and the Bank's Operational Directives.

*Pari-Passu* and the Environmental Work Plan

On the environmental side, we found that the *pari passu* principle - the idea that environmental impact studies would be done as construction proceeds - undermines the prospect for achieving environmental protection.(p. 352) Yet the substantive issues of environmental planning and impact have been reduced in *Next Steps* to yet another listing of studies - something that our review found was never lacking and rarely meaningful. The Executive Directors are invited to continue the *pari passu* approach, without any mention in *Next Steps* of the fact that we found that the *pari passu* approach had frustrated the meaningful definition of environmental impacts and the implementation of appropriate mitigative measures. You will note that even something as basic as the Environmental Work Plan is still unavailable (legally required by the Bank before the end of 1985 and by India's 1987 conditional environmental clearance and discussed in our report from page 226 to 230). *Next Steps* indicates that something will be available by January 1, 1993. It says that a plan is "under consideration by the Environmental Sub-Group of the Narmada Control Authority" (paragraph 3.04) This kind of "consideration" has been underway in one way or another to no avail for the last six years. The "key" elements of the plan, summarized in Annex III to *Next Steps*, consist almost entirely of "studies" and "action plans" that we considered very carefully. As our report makes clear, most of these were found to be seriously flawed. Many were only marginally relevant. Few will be of significance in developing and implementing proper measures to protect the environment. The way in which these now are placed before the Executive Directors fails to take into account the substance of our work and is misleading as to almost every component of the environmental preparations in all three states. The hydrology and sedimentation issues as they are presented in *Next Steps* illustrate the point.

Hydrology

The Executive Directors are given the assurance in *Next Steps* that the hydrology issues raised in our report have been addressed. This is not true. The data, it is said, were "discussed at length with specialists from the Independent Review". These "at length" discussions consisted of three telephone conversations from July 30th to August 17th. During the first calls it was apparent that the Bank staff person making the call had no previous familiarity with the studies for the Sardar Sarovar Projects, that he had not read the summary report prepared by our consultant and was unaware how our analysis had incorporated daily streamflow data in a computer assessment. In the second phone call (August 14) he said that he was working on a written reply for the Director of the India Department to be sent to us on this subject (which we never received). He had, by then, read our consultant's report but he still did not have any daily streamflow data to work with. He had made incorrect assumptions based on monthly or ten day averages and was speculating about the possibility of leaving spillway gates open as one way to meet some of the concerns raised by previous oversights in the calculations. He was told by our consultant that the assumed power and irrigation benefits would be shown to be wrong if the proper calculations were made and he was directed to the relevant sections of our consultant's summary report. During the third phone call (August 17) he agreed that he could not get to the heart of the matter without more data. He still did not have the daily hydrologic data that we had used. From what he said, it was clear the Bank still had not

done its own calculations. Our consultant told the Bank staff person that the data and detailed information upon which we relied was available if he contacted the office of the Review. We never heard from him again.

*Next Steps* says that it agrees with the view in our report that the hydrological information needs "to be updated periodically to reflect changing conditions in the Narmada Basin". (paragraph 3.14) This is misleading. What our report does say in the hydrology chapter is that there are problems with data, that there are problems with the analyses done to date such that "there is no appropriate understanding of the hydrology of Sardar Sarovar with or without Narmada Sardar". (p.253) This has nothing to do with a periodic update. Our report says "a comprehensive evaluation is needed, including a complete systems analysis" (p. 252) On these substantive matters, *Next Steps* is silent.

*Next Steps* disagrees with our conclusion that the water delivery system will not function as planned. It says this is not supported by the analyses done in India, and that the Bank staff concurs with these analyses. These are the very analyses that we reviewed; we found that they misconstrue the way in which the project will function. Without their own assessment, how can *Next Steps* dismiss what has been documented in our report?

Sedimentation

Two sedimentation problems are raised in our report. (pp. 269-274) The first issue has to do with the deposition in the reservoir generally. The second and more serious problem deals with the build up of sediment which would form a delta at the upstream end of the reservoir.

*Next Steps* mentions only the sedimentation in the reservoir. (paragraph 3.09) It says that "Bank staff reviewed the Independent Review's claim that the rate of sediment depletion [sic] in the reservoir had been underestimated". It goes on to say that the Bank does not know if the "claim" was based on any detailed review of the data and methodology of India's Central Water Commission. Yet in the phone call to our consultant, on or about July 30th, the Bank staff person was told that we had done the calculations ourselves based on the daily streamflow and raw data on sediment provided to us by India. Our report also states that we not only obtained the data and analyses from India's Central Water Commission, but that we also went to the Nigam and the Ministry of Water Resources for the best information they had. (p. 272) As noted in our report, the experts we engaged were unable to replicate the results claimed by the project proponents. (p. 273) We describe why there is an error in what had been done by others and suggest the likely order of magnitude of the underestimation. We said, "Because there is no comprehensive environmental assessment, we are not in a position to judge the significance, if any, of this underestimation."(p. 273)

Our report emphasizes that there is another compelling and immediate problem related to sedimentation - the backwater effect that will be caused by the build up of sediment in a delta at the upstream end of the reservoir. (pp. 273, 274) This sedimentation problem is not mentioned at all in *Next Steps*. We had calculations done to establish the general magnitude and location of this delta-related sediment problem. There is nothing that the Bank or India is proposing that will address this issue.

*Next Steps* ignores the fact that there has never been a proper environmental impact assessment of the Sardar Sarovar Projects. Because there was no impact assessment we had to do an enormous amount of work that was not originally seen to be part of our terms of reference in order to create a database. In the process we uncovered data that had been overlooked or misrepresented in the work done before for the Bank and India.

Concluding Observations

We are concerned that it has become necessary to write this letter. The Bank may choose to reject our findings. India may choose to ignore our report. It is clear, however, that the Bank's *Next Steps* document has sought to present a version of our report that is at variance with the report itself.

The findings in our report are based on project appraisal requirements as well as human rights and environmental standards to which the Bank and India have both subscribed. Yet *Next Steps* purports to give an account of our report without referring to the central place of these requirements and standards in our findings.

The Bank may reject our finding that its incremental strategy has failed. The Bank may reject our finding that the *pari passu* approach is unsound. The Bank may decide that overriding political and economic considerations are so compelling that its Operational Directives are irrelevant when decisions have to be made about the Sardar Sarovar Projects. But it should not seek to reshape our report to support such decisions.

To properly address and correct *Next Steps* is a large undertaking because it is so inaccurate in many respects. The examples provided above are illustrative only. To set all this right on paper is a task that would take more time than is available. And it may not be efficient or effective to do so if it were to perpetuate a paper chase as a substitute for a frank dialogue supported by the careful analyses with which we sought to inform our report.

We find it surprising that, apart from the phone calls on hydrology mentioned earlier, no one from the Bank has called or written to obtain any of the submissions, analyses or other documents referred to in our report.

We are prepared to meet with you and the Executive Directors if you wish to discuss our report. We think it would greatly assist if Mr. Gamble and Mr. Brody, who worked closely with us, and whose contribution we acknowledged in our report, were to attend such a meeting.

Our Review no longer has any formal existence. All of us have returned to our private lives. We make this suggestion, however, because we wish to preserve the integrity of the Independent Review's findings.

Yours sincerely,

Bradford Morse
Chairman

Thos R. Berger
Thomas Berger
Deputy Chairman

cc: Executive Directors
The World Bank

THE BANK INFORMATION CENTER
A Clearinghouse For Environmental Information On MDB Funded Projects

APPENDIX II

May 26, 1994

ADVISORY BOARD

Charles Abugre *Uganda*
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Indro Tjahjono *Indonesia*

Geoffrey Read
EA2EU
The World Bank
1818 H Street, NW
Washington, DC 20433

Dear Mr. Read,

I am writing in regard to the World Bank's Liaoning Environment project in China (Project ID No: 4CHAPA192). Specifically, I would like to request the following information:

1. The full Environmental Impact Assessment for the proposed project
2. The Yellow and Green Cover Staff Appraisal Reports
3. Any other related factual and technical information about this project.

Thank you in advance for your prompt attention to this request.

Sincerely,

Chad Dobson
Secretary

2025 I Street, N.W., Suite 522, Washington, D.C. 20006
Tel: (202) 466-8191 Fax: (202) 466-8189
ECONET: BICUSA

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# THE BANK INFORMATION CENTER

A Clearinghouse For Environmental Information On MDB Funded Projects

WHICH BANK IS THIS? CITICORP?

GR

May 26, 1994

FROM

Geoffrey Read
EA2EU
The World Bank
1818 H Street, NW
Washington, DC 20433

EA2EU
MAY 27 1994
RECEIVED

Do it okay to provide the requested items?

NO - not available from my [illegible]

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*Dominica*

Vandana Shiva
*India*

Indro Tjahjono
*Indonesia*

Dear Mr. Read,

I am writing in regard to the World Bank's Liaoning Environment project in China (Project ID No: 4CHAPA192). Specifically, I would like to request the following information:

1. The full Environmental Impact Assessment for the proposed project
2. The Yellow and Green Cover Staff Appraisal Reports
3. Any other related factual and technical information about this project.

Thank you in advance for your prompt attention to this request.

Sincerely,

Chad Dobson
Secretary

please send to the PID for their attention & ACTION

TO MR/S DOBSON

2025 I Street, N.W., Suite 522, Washington, D.C. 20006
Tel: (202) 466-8191 Fax: (202) 466-8189
ECONET: BICUSA

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I have forwarded this to the PID in the Bank
Thank you for your interest DD, 6/1/94

The World Bank
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

1818 H Street, N.W.
Washington, D.C. 20433
U.S.A

(202) 477-1234
Cable Address: INTBAFRAD
Cable Address: INDEVAS

June 8, 1994

Mr. Chad Dobson
Secretary
The Bank Information Center
2025 I Street, N.W., Suite 522
Washington, D.C. 20006

Dear Mr. Dobson:

I am writing in response to your May 26, 1994 letter addressed to Mr. Read of my office requesting information on the Liaoning Environment Project in China. First, I would like to apologize for the poor handling of your request. Elements of a draft response to your letter, noted on your incoming, were sent to you by mistake rather than being routed through me. This was indeed unfortunate. Our office has received many requests for information in recent weeks, which have strained our capacity. Nevertheless, we all agree that prompt and full attention to such requests is extremely important, and I am reviewing the Division's internal systems to ensure that we will be more responsive in the future.

On the specifics of your request, I am attaching a copy of the Environmental Impact Assessment report for the proposed project. Normally, we would ask that the Bank's Public Information Center handle the dissemination of this type of document, but considering the delay since receiving your letter I thought it appropriate to send you a copy directly. Unfortunately, I am not in a position to provide the Yellow and Green Cover Staff Appraisal Reports. As you know, the World Bank Policy of Disclosure of Information provides, in its paragraph 13, for the disclosure of the Staff Appraisal Report once it has been approved by the Executive Directors. Since the Government has agreed to the release of the final version of the SAR, you will be able to obtain a copy through the Public Information Center once it has been considered by the Board. Board discussion is currently scheduled for July 26, 1994.

Finally, in your letter you ask for copies of any other related factual and technical information about this project. Chapter 9 of the Environmental Assessment provides a list of references and working papers for the project. Please let me know if any of these are of particular interest, and I will seek the Government of China's agreement to provide copies.

We believe that the proposed Liaoning Environment Project includes many innovative features which will have an important impact on improving environmental conditions in Liaoning Province, and we thank you for your interest.

Sincerely yours,

Katherine Sierra

Katherine Sierra
Chief
Environment and Urban Development
Operations Division
China and Mongolia Department
East Asia and Pacific Region

RCA 248423 • WUI 64145 • FAX (202) 477-6391

INTERNATIONAL
RIVERS
NETWORK

May 27, 1994

Mrs. Marianne Haug
Director
Country Department III
World Bank
1818 H Street, NW
Washington, DC 20433

By Fax: (202) 447-1629

Dear Mrs. Haug,

I am writing to request project documents on the Indonesia Java Water Management, Indonesia Integrated Swamps and Indonesia Dam Safety projects.. I would like to request the following documents for each project:

1) Initial Executive Project Summaries;

2) Executive Project Summaries;

3) Yellow and Green Cover Staff Appraisal Reports and all annexes;

4) Baseline Data and Feasibility Studies; and

5) Studies on Project Alternatives.

I am submitting this request under the World Bank's new information policy which allows for the release of documents or portions of documents which contain factual technical information on projects in preparation (BP 17.50, point 5). If you do not release these documents in full, I still expect to receive all portions of these documents that contain factual technical information about the aforementioned projects.

Thank you for timely response to this important matter.

Sincerely,

Joe Karten, Campaign Coordinator

1847 Berkeley Way, Berkeley, California 94703 USA
Tel: (510) 848-1155 / Fax: (510) 848-1008 / Econet: irn

The World Bank
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

1818 H Street, N.W.
Washington, D.C. 20433
U.S.A.

(202) 477-1234
Cable Address: INTBAFRAD
Cable Address: INDEVAS

June 2, 1994

Mr. Joe Karten
Campaign Coordinator
International Rivers Network
1847 Berkeley Way
Berkeley, California 94703

Dear Mr. Karten:

INDONESIA - Java Irrigation Improvement and Water Resources Management, Integrated Swamps, and Dam Safety projects

Thank you for your communication of May 27, 1994. In accordance with the Bank's policy on Disclosure of Information, we suggest that you contact the Bank's Public Information Center (PIC) and request for the Indonesian projects mentioned in your letter (Java Irrigation Improvement and Water Resources Management, Dam Safety and Integrated Swamp Development) the following documentation:

(a) The Project Information Document (PID); and

(b) The Staff Appraisal Report (SAR).

Please note that the above three projects are scheduled for consideration by the Bank's Board of Executive Directors in May/June 1994 and the SARs, therefore, may not be available before end-June 1994. Should you require additional technical information, after having analyzed the above documents, we would be pleased to consider such a request in consultation with the Government of Indonesia.

Sincerely yours,

Marianne Haug
Director,
Country Department III
East Asia and Pacific Region

RCA 248423 • WUI 64145 • FAX (202) 477-6391

The World Bank
1818 H Street N.W
Washington D.C. 20433
America

# FAX COVER SHEET

This is the wrong info they sent, which I pointed out. They are "looking for" environmental impact statement on solid waste component. But thought you might not have see this.

| | |
|---|---|
| Date: | February 14, 1994 |
| To: | Cyrus Reed<br>Texas Center for Policy Studies<br>(512) 474-0811 |
| City: | |
| Country: | |
| Fax No. : | (512) 478-8140 |
| Number of pages : | 8<br>(including this sheet) |
| From : | Jegajothy Vythilingam,<br>Public Information Centre (PIC),<br>Room J 1047 |
| Dept./Div: | EXTPI |
| Dept./Div Nos: | 87107 |
| FAX No.: | (202) 522 - 1500 |
| If you do not receive the correct number of pages, please call : (202) 458 - 5454 | |

MESSAGE:

Per your request, enclosed are the PIDs on Mexico.

PROJECT INFORMATION DOCUMENT

| | | |
|---|---|---|
| Project Name | Northern Border Environment Project | |
| Executing Agency: | Banco Nacional de Obras y Servicios Públicos (BANOBRAS), Mexico | |
| | Address: | Tecoyotitla 100, Esq. Francia<br>Col. Florida<br>03010 México D.F. |
| | Tel: | 52-5-723 6000 |
| | Fax: | 52-5-723 6007 |
| | Contact: | Departamento de Organismos Financieros Internacionales |
| PID Prepared | December, 1993 | |
| Projected Board Date: | May 1994 | |

*Project Objectives*

1. The Northern Border Environment Project aims to improve environmental quality on the border by assisting municipal, state, and federal authorities to strengthen their environmental planning, management, and enforcement capabilities and to invest efficiently in environmental infrastructure. These activities will help preserve the environment, reverse past degradation, reduce health risks, and protect biodiversity.

2. The project will address some of Mexico's most serious environmental problems, which have resulted in part from rapid economic and urban growth in the 100 km zone south of the border with the United States. The project includes measures to address the area's serious needs to improve water supply and wastewater treatment, household and hazardous waste management, air pollution. The project will also assist the Government of Mexico in its efforts to improve compliance with environmental regulations. Design and implementation of the project will involve government agencies at all levels, in consultation with local NGOs, businesses and communities, wherever possible.

*Project Description*

3. The project would have two main components. The first, institutional strengthening, would consist mainly of studies and technical assistance (26% of total project costs). The second (74% of total project costs), environmental services, linked to sector-wide programs under preparation at the national level, would support some 15-18 investment subprojects in 5 or 6 border cities in the areas of water supply and sanitation, solid waste management, and air quality and urban transport. Cities would present investment proposals and be required to meet certain eligibility criteria consistent with the sector-wide programs.

Note: This document provides information on an evolving project. Certain components may not necessarily be included in the final project

4. **Institutional Strengthening.** This component would fund technical assistance and related activities to: (i) improve the capabilities of federal, state, and municipal authorities for effective environmental management, and (ii) accelerate progress in certain key areas (hazardous waste management, protection of biodiversity and endangered species, and planning and preparation of future activities).

*Federal Level Strengthening.* The chief environmental enforcement agency (the Procuraduría Federal de Protección al Ambiente -- PFPA) would be extensively strengthened through training and equipment of inspectors, through improvements in their existing programs of environmental audits and identification and analysis of contaminated sites and through improving the public complaints system. The PFPA expects to increase the number of its inspectors and environmental lawyers almost threefold under the project.

*State Level Strengthening.* The environmental authorities of four border states would be strengthened, through improving staff capabilities, equipment for assessing and controlling environmental pollution, and strategy development. An existing Bank project is strengthening environmental management capabilities in the other two border states.

*Municipal Level Strengthening.* The project will strengthen the newly created environmental departments in the border municipalities. It will also address performance-related issues in municipal finance through measures to enhance revenue, improve cost control, and strengthen financial management. In all, ten cities would be assisted.

*Hazardous Waste Management.* Support would be provided for: (i) studies and other activities to help the government implement its hazardous waste management policy, (ii) a treatment needs analysis, to identify the border area's requirements for off-site hazardous waste treatment, recycling, and disposal facilities through the year 2005; (iii) technical assistance linked to PFPA's environmental audit program to help firms implement the audit's recommendations, and some financial assistance to help small and medium industries meet the cost of the audits; and (iv) a pilot program for mobile hazardous waste treatment, under which specially equipped trucks would treat some wastes on site.

*Protection of Biodiversity and Endangered Species.* Support would be provided for (i) development and implementation of management plans for the protection of three ecologically important areas in Mexico which are contiguous with national parks and protected areas on the US side (Alto Golfo and El Pinacate, Sierra del Carmen and Maderas del Carmen, and Laguna Madre de Tamaulipas); (ii) studies to identify the needs and options for protection of endangered species in the border area; and (iii) training in protected area management.

*Planning and Preparation for Future Initiatives.* Support would be provided for development of the next phase of the border improvement effort, since the actions covered under this proposed project will meet only a fraction of the total needs.

Note: This document provides information on an evolving project. Certain components may not necessarily be included in the final project

5. Environmental Services Improvement. This component would consist of a line of credit available for subprojects in five or six qualifying border cities to finance their most urgent environmental infrastructure needs at non-subsidized interest rates.

*Water Supply and Sanitation.* The project would provide (i) technical assistance to help the National Water Commission (CNA), the states, and local Water Utilities (WUs) manage water resources and to develop cost-effective pollution control policies; and (ii) funds to support water supply, sewerage, and wastewater treatment investments within the framework of master plans prepared by the WUs with the assistance of CNA. The sub-component would also include assistance to develop and implement a system to control wastewater discharges to the sewer system and to collect pollution fees. All the activities will be consistent with a countrywide sectoral loan under preparation.

*Solid Waste.* Municipalities will have access to funds to increase their municipal solid waste collection, recycling and disposal systems. The investments will be based on master plans they have prepared. Again, the investments will be entirely compatible with a countrywide loan for solid waste management, under preparation. The project includes provisions to improve the living conditions of waste pickers affected by the project, and to rehabilitate and, if necessary, resettle, the affected populations.

*Air Quality, Urban Transport, and Paving.* Support would be provided for traffic management, road maintenance and rehabilitation, paving in poor neighborhoods, environmental assessment and pollution control measures, including vehicle inspection and maintenance, and institutional strengthening. These measures will also conform with an existing sectoral loan.

*Implementation*

6. BANOBRAS, the borrower, would also be the executing agency responsible for carrying out the project. BANOBRAS will review and approve investment sub-loans and technical assistance/training proposals and will also be responsible for the financial aspects of procurement. BANOBRAS will also process and negotiate sub-loan agreements.

7. SEDESOL will be responsible for overall monitoring of the project's progress, setting up a Project Analysis and Monitoring Office.

8. Technical agencies will implement the project in their respective areas of responsibility: SEDESOL (for solid waste and urban transport/paving), INE (for protected areas, hazardous waste management strategy, municipal environmental management strengthening and studies), PFPA (for PFPA strengthening and hazardous waste management), CNA (water supply and sanitation) and BANOBRAS (for municipal finance strengthening).

*Costs and Financing*

Note: This document provides information on an evolving project. Certain components may not necessarily be included in the final project

9. The project will cost an estimated $760 million, of which some $370 million would be financed by the Bank. Some 26% of the total costs will be for institutional strengthening and hazardous waste management, with the remainder for environmental services improvement.

*Environmental Aspects*

10. The environmental assessment (EA) category is A. EAs for the solid waste investments will be completed prior to appraisal.

*Consulting Services*

11. Consulting services will be required under the project.

Contact: Public Information Center

Telephone: (202) 458 4433

Fax: (202) 477 2127

n:\mxborder\pid
January 13, 1994

Note: This document provides information on an evolving project. Certain components may not necessarily be included in the final project

# Texas Center for Policy Studies

February 15, 1994

Julia Bucknall
World Bank
1818 H Street, NW
Washington, DC 20433

Dear Julia Bucknall,

Thank you for speaking with me about the Northern Border Environmental Project. As a non-profit environmental research organization working on environmental issues in the Texas/Mexico border region, we are seeking to stay informed about the progress of the program. I wanted to make sure that I understand correctly the information that you provided. If my understanding is not correct, or you have any additional information you would like to add, please let me know.

**1. Details of the Northern Border Environmental Project.** Besides the currently available "Executive Project Summary," you stated that until negotiations are completed in March with the Mexican government, it is not possible to see a more detailed break-down of funding needs. However, 26 percent of the funds would be used for technical assistance, including institutional strengthening and planning and management, while 74 percent of the funding is earmarked for sectoral projects like solid waste management, water supply and wastewater treatment, air quality protection, transport and paving.

**2. Role of Non-Governmental Organizations.** You stated that the money would be distributed on a first-come, first-serve basis, with each municipality applying for the funds, and the World Bank and Mexican government deciding whether to approve individual projects. Within that framework, NGOs could be contracted to conduct research and provide technical assistance. In addition, the technical assistance component of the project (institutional strengthening) would involve community outreach which would involve NGOs. Nonetheless, there is not a more formal role within the project envisioned for NGOs, either in its planning or implementation.

**3. Environmental Impact Assessments.** The World Bank will follow all regulations of the Mexican government regarding environmental impact

assessments on projects. The only required environmental impact assessment initiated by the World Bank is for the Solid Waste component of the Northern Border Environmental Project, which has been completed. This document, under the Bank's more open rules, is available for the public.

**4. Coordination with NADBank and BECC.** The World Bank has conducted informal meetings with the Treasury Department about its Mexican projects mainly for informational purposes and a smoother operation of the NADBank. In addition, the Bank would likely share information with the future BECC to avoid duplication of efforts. However, none of the funding that the World Bank is providing in the Northern Border Project would be subject to oversight by the BECC. They are entirely separate institutions.

Please let me know if there is any additional information that you would like to add. Also, the Public Information Center has not been able to locate the Environmental Impact Assessment on the solid waste component. Could you help us obtain a copy?

Sincerely.

Cyrus Reed

Cyrus Reed
Texas Center For Policy Studies
Fax (512)478-8140

Dear Cyrus.

We received your fax of March 18 requesting a number of environment documents. I,apologize for getting back to you with such delay. The documents you requested do not seem to be readily available in our Center, but we are locating them.

As soon as possible, we will get back to you.

Sincerely,

K. A. DiTullio
Head, Public Information Center, World Bank

# THE WORLD BANK/IFC/M.I.G.A.

Headquarters: Washington, D.C. 20433 U.S.A.
Tel. No. (202) 477-1234 // Fax Tel. No. (202) 477-6391 // Telex No. RCA 248423

## FACSIMILE COVER SHEET AND MESSAGE

(4)

DATE: May 18, 1994 NO. OF PAGES: 4 (including this sheet) MESSAGE NUMBER:

TO
Name: Mr. Cyrus Reed
Organization: Texas Center for Policy Studies

Fax Tel. No. 512-478-8140
City: Austin, Texas
Country: U.S.A.

FROM
Name: Kathleen A. DiTullio
Dept./Div. Public Information Center
Room No. J-20009

Fax Tel. No. 202-473-8169
Dept/Div No. 87107
Tel. No. 202-473-0028

SUBJECT: Mexico - Environment Reports

MESSAGE:

Following our telephone conversation this afternoon, we are sending you the following environment assessment documents related to the Mexico Second Solid Waste Management Project:

1. Torreon (Coah)
2. Tijuana (BC)
3. Matamoros Programa Social
4. Manual Guia
5. Pepenadores en Ciudades Fronterizas
6. Reporte de Evaluacion Ambiental

(I did not find the report on Juarez. Tijuana is the substitute.)

Also, attached to this fax is the PID for the Mexico Aquaculture Project.

Please let me know if we can be of further assistance.

Transmission authorized by: Kathleen A. DiTullio

If you experience any problem in receiving this transmission, inform the sender at the telephone or fax number listed above.

1834 (7 90)

THE BANK INFORMATION CENTER

A Clearinghouse For Environmental Information On MDB Funded Projects

(5)

May 25, 1994

ADVISORY BOARD

Charles Abugre *Uganda*

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Vandana Shiva *India*

Indro Tjahjono *Indonesia*

Chuong Ngoc Phung
Task Manager
LA2C1
The World Bank
1818 H Street, NW
Washington, DC 20433

Dear Mr. Chuong,

I am writing in regard to the World Bank's Northern Border I Environment project in Mexico (Project ID No: 6MXCPA215). Specifically, I would like to request the following information:

1. The Initial Executive Project Summary
2. The Yellow and/or Green Cover Staff Appraisal Reports
3. Any other related factual and technical information about this project.

I would also like to know when this project will come before the Board of Directors for a vote.

Thank you in advance for your prompt attention to this request.

Sincerely,

Kay Treakle

Kay Treakle
Coordinator, Latin American
and Caribbean Program

2025 I Street, N.W., Suite 522, Washington, D.C. 20006
Tel: (202) 466-8191 Fax: (202) 466-8189
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# *FAX TRANSMISSION*

***May 31, 1994***

NUMBER OF PAGES INCLUDING COVER SHEET: 5

TO: KAY TREAKLE
BANK INFORMATION CENTER
FAX (202) 466-8189

FROM: C. PHUNG
WORLD BANK - WASHINGTON, D.C. (USA)
USA (202) 473-9037/FAX (202) 676-1464

SUBJECT: REQUEST FOR INFO. RE. NORTHER BORDER ENVIRONMENT PROJECT.

MESSAGE:

Attached is a copy of the above mentioned project's Project Information Document. This is being supplied to you in response to your May 25, 1994 correspondence to this office.

Please contact Lily Franchini at (USA) 202-473-8835 should there be any problems with the attached FAX.

# THE BANK INFORMATION CENTER

A Clearinghouse For Environmental Information On MDB Funded Projects


– FAX –

May 31, 1994


ADVISORY BOARD

Charles Abugre *Uganda*

Iqbal Asaria *United Kingdom*

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Yoichi Kuroda *Japan*

Atherton Martin *Dominica*

Vandana Shiva *India*

Indro Tjahjono *Indonesia*


Chuong Ngoc Phung
Task Manager
LA2C1
The World Bank
1818 H Street, NW
Washington, DC 20433

Dear Mr. Chuong,

We just received a copy of the Public Information Document for the Northern Border Environment Project (6MXCPA215). Thank you for sending it to us. However, this is not the documentation we requested (please see our earlier fax to you, attached). Again, specifically we would like to request the following documents:

1. The Initial Executive Project Summary
2. The Yellow and/or Green Cover Staff Appraisal Reports
3. Any other related factual and technical information about this project.

Our staff member, Deborah McLaren, said she discussed the loan approval date for this loan with you on the telephone this afternoon and that you indicated the Board was scheduled to approve this loan on June 9, 1994. We would appreciate your help in obtaining the above documentation. Thank you.

Sincerely,

Kay Treakle

Kay Treakle
Coordinator
Latin American and Caribbean Program


2025 I Street, N.W., Suite 522, Washington, D.C. 20006
Tel: (202) 466-8191 Fax: (202) 466-8189
ECONET: BICUSA


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June 1, 1994

Ms. Jan Piercy
Exec. Dir. Designee for U.S.
The World Bank
1818 H Street, N.W.
Washington, D.C. 20433

Sr. Angel Torres
Executive Director for Mexico
The World Bank
1818 H Street, N.W.
Washington, D.C. 20433

**Re: Proposed Northern Border Environmental Project Loan to Mexico**

Dear Ms. Piercy and Sr. Torres:

We write as organizations dedicated to protection of the environment, public health and worker health in the U.S./Mexico border region, as well as within Mexico in general. We have reviewed both the Public Information Document and the Staff Appraisal Report (SAR) for the World Bank's proposed $ 368 million first-phase of the Northern Border Environmental Program (NBEP) loan, and we urge the Bank's Board of Directors to postpone a vote on the proposed loan. This loan will come before the Board of Directors for decision on June 9, 1994.

**This letter sets out our serious reservations about the design of this large loan. We are extremely concerned about the failure of the Bank and the Government of Mexico to follow the Bank's own policies, particularly World Bank Operational Directive 4.01 (relating to Environmental Assessments and Public Consultation/Participation) in designing the loan program.**

The Northern Border Environmental Project Phase I was appropriately assigned an Environmental Assessment Category A (requiring an environmental assessment, through a process that is supposed to include the participation of affected people and non-governmental organizations). However, **no Environmental Assessment has been done for this project.** The Bank and the Government of Mexico have apparently decided that the environmental assessment requirement can be fulfilled by EAs prepared under other "related" loans being made to Mexico, such as the Mexico Solid Waste Management Project.[1] However, as far as we can determine only a few EAs have been prepared under the solid waste loan, and funding would be available for up to six or seven border cities under the NBEP.

**In addition, the EA for Matamoros under the Solid Waste Loan seems to have been prepared without any effort from the Government of Mexico to secure participation of a broad range of affected persons or NGOs in Matamoros.** In fact, after literally months of requests, the final versions of these EAs are just now being provided by the Bank's Public

---

[1]The $ 200 million "Second Solid Waste Project" will provide financing for about 30 medium-size cities, including three or four in the northern border area covered by the NBEP.

Information office, at the request of the Texas Center for Policy Studies.

Given the large amount of money that is proposed to be targeted toward border environmental issues under this loan and Phase II of the NBEP ($ 350 million), the scope and complexity of environmental issues along the Mexico/U.S. border, as well as the shear number of persons potentially affected, it is unacceptable that there has been no environmental impact assessment procedure or meaningful public consultation process to develop the components of this loan. Until such an EA is completed, in full consultation with Mexican border communities and Mexican NGOs, the Bank's Board of Directors should postpone a vote on this proposed loan.

We want to emphasize that we understand, all too well, that SEDESOL, the Procuraduria Federal de Proteccion Ambiental (PFPA) and the Instituto Nacional de Ecologia (INE) *do need* additional resources to develop meaningful regulatory and enforcement programs. However, it is probable that the only option Mexico really has for developing a self-sustaining, strong environmental program is the institution of a permit/user fee structure for industry. As you know, many government environmental programs in the U.S. are funded through such permit/user fees. In a country like Mexico, where there are substantial competing demands on the general revenue fund, compounded by a low wage/tax base, it is critical that such a fee system be developed and implemented very quickly. Yet, the loan does not contemplate or require development of such a system.

We also recognize that establishing an effective environmental protection structure in Mexico depends on building capacity to deal with environmental regulation and infrastructure at the state and local levels. *We understand that the proposed NBEP loan is an attempt to deal with these issues.*

Nevertheless, we believe that the loan, as currently proposed, is seriously misguided. The Bank staff is proposing to fund a dizzying array of activities with little inter-agency coordination or evaluation. More importantly, however, as currently structured the loan does not include conditions which would foster involvement of the public or local governments or public accessibility to documents and data. Nor does it address key failings of the current Mexican environmental regulatory scheme.

As far as we can determine from the SAR (which we understand is not publicly available), the Bank staff seem to be ignoring inherent problems and past failures of Mexico's environmental protection programs. A few select examples of past problems include: an historical lack of willingness to follow-up on public complaints about pollution; refusal to make even basic documentation on polluting facilities or air and water quality monitoring data available to the public; and use of World Bank funds to train almost 50 inspectors in Tamaulipas, who then had to try and find jobs with industry because the state government did not have jobs for them. During 1993, many inspectors in border states went without pay or were considered to be consultants with no permanent contract.

Rather than evaluating why these problems have occurred, the Bank seems to be proposing to "throw more money" at them as a solution. This approach ignores fundamental factors and

conditions that must be changed if Mexico is to develop an open, responsive and effective environmental regulatory program. We wonder whether this loan is a serious attempt to solve problems, or, rather, an effort to bolster claims of environmental progress in Mexico.

**We believe that the failure of the Bank to enforce its own Operational Directive 4.01, which, among other things, requires the borrowing country take into account the views of affected groups and local NGOs in project design [and implementation], has resulted in the Bank staff proposing a large, unwieldy loan that may not really improve environmental protection in the border region.**

In some cases within the SAR, the lack of inter-agency coordination combined with the "border" focus will actually hamper regulatory efforts to address problems that are national in scope. For example, the current failure to track cross-border movement of hazardous waste may be linked to the lack of a national program to track and regulate all hazardous materials. Such a program could also be coordinated with the creation of a pollutant release and toxic transfer registry program that, in turn, could form a basis for pollution prevention, emergency response and worker and community right-to-know programs. (See also OD 4.01, Para. 18 regarding Interagency Coordination).

Finally, disbursements of certain elements of the loan (hazardous waste facility siting, transportation and wastewater infrastructure projects, in particular) should not proceed without a full Environmental Assessment--either for the project component as a whole or for particular sub-projects, as required by the Bank's own policy under OD 4.01. Many elements of the institutional strengthening component of the loan will also require full assessments of their environmental impacts.

Apparently, the Bank staff has failed to learn anything from the negative environmental impacts of past Bank loans to Mexico, including the **Chihuahua/Durango forestry loan** (work begun before required environmental assessments were completed; lack of institutional coordination; loan now pending cancellation); **the mining loan** (streamlining the mining sector without simultaneous environmental safeguards); **and the Mexico Environmental Project** (MEP) (lack of accountability and other problems).

**Given the enormous social and environmental impact of this and other World Bank loans to Mexico, we urge the Bank to develop means for ensuring full public participation in the implementation of Bank-supported projects in Mexico by (1) ensuring its policies are followed; (2) engaging in frequent consultations with affected communities; and (3) publishing mid-term reviews of loan progress.**

Attachment A to this letter, which was prepared by several border groups, provides a more detailed analysis of the proposed NBEP loan. This analysis is still under review, but many key concerns are set forth. We would be happy to meet with you to discuss concerns related to the NBEP and other proposed environmental loans to Mexico. Of course, without a substantial postponement of the decision on this proposed loan, the time for revisions or additions is very short. Nevertheless, please do not hesitate to contact any of us if you have questions or would like further elaboration on any of the points we are raising. Please feel free to contact

Dick Kamp or Geof Land, Border Ecology Project @ (602) 432-7456; Kay Treakle, Bank Information Center @ (202) 466-8191; or Rosa Delia Caudillo or Catalina Denman, La Red Fronteriza de Salud y Ambiente, A.C. @ (011-52) 626-02250.

Thank you very much for your consideration of our views, and we look forward to your response as soon as possible.

Sincerely,

- Alert Citizens for Environmental Safety, El Paso, Texas
- Arizona Toxics Project, Bisbee, Arizona
- Bank Information Center, Washington, D.C.
- Bioconservación, A.C., México, D.F.
- Border Ecology Project, Bisbee, Arizona
- Center for International Environmental Law, Washington, D.C.
- Comisión de Solidaridad y Defensa de Derechos Humanos, A.C., Ciudad Chihuahua
- Comit Cívico de Divulgación Ecológica, A.C., Mexicali, Baja California Norte
- Debase, A.C., México, D.F.
- Enlace Ecológico, A.C., Agua Prieta, Sonora
- Environmental Health Coalition, San Diego, California
- Equipo Pueblo, Mexico, D.F.
- Development Gap, Washington, D.C.
- Fundación Ecológica Mexicana, A.C., Saltillo, Coahilla
- Friends of the Earth, Washington, D.C.
- Greenpeace Mexico, México, D.F.
- Grupo de Cien, México, D.F.
- Grupo de Estudios Ambientales, México, D.F.
- Institute for Policy Studies, Global Economy Program, Washington, D.C.
- Interhemispheric Education and Resource Center, Albuquerque, New Mexico
- International Environmental Alliance of the Bravo, El Paso, Texas
- International Rivers Network, Berkeley, California
- Northeast Sonora Cochise County Health Council, Douglas, Arizona/Agua Prieta, Sonora
- Pacto de Grupos Ecologistas, México, D.F.
- Proyecto Fronterizo de Educación Ambiental, A.C., Tijuana, Baja California Norte
- Red Fronteriza de Salud y Ambiente, A.C., Oficina de Enlace, Hermosillo, Sonora
- Red Mexicana de Acción frente al Libre Comercio, México, D.F
- Santo Tomás Medio Ambiente y Desarrollo, Tabasco
- Sierra Club, Washington. D.C
- Texas Center for Policy Studies, Austin, Texas

cc: Mr. Lewis Preston, President
Mr. Ismail Seregeldin, Vice President, Environmentally Sustainable Development
Country Directors, World Bank, Austin, Texas

## ATTACHMENT A

## ANALYSIS OF STAFF APPRAISAL REPORT FOR NORTHERN BORDER ENVIRONMENTAL PROJECT:

### GENERAL CONCERNS

A. There are many elements of the proposed loan where public participation (through community hearings, notice and comment procedures or other means) should be required of the Government of Mexico as a loan condition. In other elements, the loan conditions should guarantee that documents produced by PFPA, INE or other agencies are available to the public. (See Specific Comments on SAR Paras. 3(a)(i), 3(a)(ii), 3(a)(iii), 3(b)(iii), 3(c)(i), 3(c)(ii); 5-9, 10-17, 18(a)).

The Bank and the Government, in preparation of this proposed loan, have failed to comply with several provisions of OD 4.01, including Paras. 19 and 20 (related to Involvement of Affected Groups and Non-Governmental Organizations); Paras. 21 and 22 (providing relevant information to affected groups and NGOs before consultations begin; making EAs available at locations accessible to local NGOs; conditionality of proceeding with loan without an EA). In addition, new Bank Procedure 17.50 (Disclosure of Operational Information) (EAs must be made available in the borrowing country at places accessible to local groups and NGOs).

B. Disbursements under several elements of the proposed loan should be withheld until full environmental assessments (with public input) are completed by the Government of Mexico. (See Specific Comments on SAR Paras. 18(a), 35-46).

C. There are many aspects of the proposed loan which should include conditions for interim evaluations or specific procedures to make sure the intended results are achieved and that loan monies are allocated efficiently. (See Specific Comments on SAR Paras. 3(a)(ii), 3(a)(iii), 3(b)(i), 3(b)(iii), 3(c)(i), 3(c)(ii), 3(c)(iii), 5-9, 10-17, 18(a)). In addition, an Environmental Advisory Panel, as provided for in Para. 13 of OD 4.01, may be appropriate for this complex loan.

D. The SAR fails to propose sufficient inter-agency coordination provisions for the loan and to integrate this coordination with necessary public participation opportunities (See Specific Comments on SAR and Para. 18 of OD 4.01).

E. Certain elements of the proposed loan related to infrastructure development should be coordinated with the Border Environmental Cooperation Commission (BECC) and the North American Regional Development Bank (NADBank). (See Specific Comments on SAR Paras. 23-26 and 27-34).

## SPECIFIC CONCERNS (BY SAR SECTION)[1]

## I. INSTITUTIONAL STRENGTHENING AND HAZARDOUS MATERIAL MANAGEMENT COMPONENT

### Section A: Federal Authorities (PFPA)

Para. 3(a)(i) Contaminated Sites: First, the SAR does not distinguish between using World Bank funds for evaluating contaminated sites where there is a responsible party and those sites for which no responsible party can be located. Except for initial site inventorying, and, possibly, preliminary evaluations, *we believe Bank funds should be used strictly for those sites where no solvent responsible parties can be located.*

Second, there do not appear to be any conditions in the loan that would require PFPA or SEDESOL to make readily available to the public and to local residents the list of contaminated sites and basic information about those sites. This is a necessary minimal condition for public involvement in this element of the loan.

Third, the loan should require some sort of mechanism for PFPA to gather information from and analyze and interpret all data gathered to the public on the location of potential contaminated sites. Obviously, it is often the neighbors of these sites that have significant information about past practices that might have resulted in contamination.

Fourth, coordination between PFPA, INE, Secretaria de Salud and Comision Nacional de Aguas (CNA) will be essential whenever facility permitting could taken place in the vicinity of a contaminated site, as well as when trying to assess past actions that could have resulted in contamination.

Para. 3(a)(ii) Environmental Emergencies Programs: First, this does not appear to be a strictly "border" component. The SAR seems to indicate that this element applies to all of Mexico. While an emergency response system is needed throughout the country, and it is valid to fund such a system as a whole, there are very different conditions and opportunities for rapid emergency response on in the immediate border area that should have been considered in structuring the border segment of this loan component. For example, there has been some limited progress between sister cities along the border in setting up communication for emergency response action and dealing with cross-border impacts of emergency releases. PFPA should be required by loan conditions to build on these border efforts and not start trying to impose new procedures from a clean slate.

Second, the SAR fails to make clear who will be "surveyed" to determine existing emergency response capabilities--the survey that seems to be the basis for this whole project

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[1]Based on limited available time for review. Other concerns may arise as further review of the SAR and any available background documents is conducted.

element. Who is surveyed is critical to determining both actual needs and how well the existing emergency response structure has worked. Without surveying the right groups of people (local governments, neighborhoods that have weathered environmental emergencies, hospitals, etc.), the funds for this element are not likely to be put to effective use. This is consistent with Bank directives for public participation in the implementation of the loan.

Essentially, the emergency response program is one element of a right-to-know program. To be effective, it needs to be integrated with other data gathering and dissemination strategies that can protect health and the environment (medical response, toxic release inventories, worker hazard communication programs, etc.). While ensuring general public access to data, coordination of this program must include state and municipal emergency responders and federal Proteccion Civil authorities.

Para. 3(a)(iii) Environmental Audits: Again, it is not clear that this element applies only to the border--it appears to support audits nationwide. The SAR should clearly designate the geographic priority areas for expenditure of funds under this element. Also, this element should include a provision (implemented as a loan condition) that environmental audits be made available to the public, with appropriate protection for trade secrets. This is especially true for those large, high risk industrial plants located near residential neighborhoods or sensitive ecological systems. Third, for those firms that receive financial assistance for the audits, it should be clear that they will be subject to reimbursing the full cost of the audit should they fail to carry out necessary remediation or other measures identified in the audit. Otherwise, the audit funds will have been wasted.

Coordination between INE (permitting and monitoring data) and PFPA is critical in determining the factors that an audit should address and in updating normative actions to be taken by INE.

Para. 3(b)(i) PFPA Enforcement Staff Expansion: The SAR states that no Bank monies would be used to fund salaries of the new inspectors; the loan would only pay for recruitment, training and office and field equipment. Unfortunately, it does not appear that the SAR requires that Mexico guarantee that monies are in place to pay for salaries for these new inspectors before disbursement of this element of the loan. Available information indicates that experience in Tamaulipas under the Bank's existing environmental loan, where inspectors where trained and then no funds were available to hire them, justifies addition of such a condition. Otherwise, the Bank funds end up being used for free training of qualified personnel for industry, as the unemployed trainees seek jobs elsewhere.

INE/PFPA have both suffered from a lack of coordination of information between them. Stories abound of PFPA inspectors having no current permits available during inspections of a facility and of having to ask the facilities to make copies of the permits supposedly on file at INE. Permits should also be made available to the public through regional INE libraries, public reports and other regional means of dissemination.

Para. 3(b)(ii) Lab Quality Assurance Program: Due to limited resources, guarantees of inter- and intra-agency training at state and federal levels, as well as joint usage of labs should be a

priority for strengthening the lab network. QA/QC should be coordinated between all these entities.

Para. 3(b)(iii) Hazardous Waste Information Systems: This is one of the elements where public participation in both the design and implementation is absolutely critical. Yet, as far as can be determined, the Government of Mexico did not seek input from NGOs or border residents in the design of this element, and the Bank staff has failed to require Mexico to seek such input, despite its own Operational Directives.

Moreover, the SAR does not indicate that Mexico will be required to provide for public participation in the implementation of this aspect of the loan. Given that the Bank has already failed to require the Mexican government to implement OD 4.01 in guaranteeing public participation in loan design, then it is absolutely critical that the Bank require a specific enforceable loan condition requiring extensive public participation in the implementation of the loan. Such conditions are not without precedent--for example, under the GEF component of the MEP (Ln3461-ME), public participation in the development and implementation of management plans for protected areas in Mexico was expressly required. The industrial inventory proposed under the present element is equally deserving of such an express condition.

(SEE ALSO comment to Para. 3(b)(i) regarding lack of INE/PFPA information exchange.)

Finally, it is questionable whether a program tracking maquiladora wastes can be implemented without having the capacity to track the flow of hazardous materials into Mexico. It is important the "toxic waste problem" be addressed nationally and transnationally simultaneously. This is especially true with entry into force of the North American Free Trade Agreement. NAFTA requires the elimination of Mexico's duty-drawback export incentives (the basis for the maquiladora industry) over the next eight years. When the maquiladoras cease to exist as legally distinct entities, the law requiring them to return hazardous wastes to their country of origin will lose all relevance.

With respect to the establishment of the hazardous waste tracking system under this element, it is curious to note that both Mexico and the U.S. Environmental Protection Agency claim this system is already up and running. Maybe the Bank is providing for retroactive financing for Mexico's costs, but that should be made clear. Moreover, this is an area where SEDESOL has refused to make the data gathered available to the public (See Attachment B, a request for this data, which has received no response from SEDESOL to date). This is a good example of why a specific loan condition for public participation/access is necessary.

Para. 3(c)(i) Informal Environmental Education: First, the SAR is silent on what procedures will be used by the Government of Mexico to select the employee members of the "local mixed committees" in the border cities. There should be a loan condition requiring that Mexico set out its selection procedure for comment by the public and approval by the Bank to ensure a fair representation of workers on these committees. Second, this element of the loan should be conditioned on providing the "risk assessments" financed by the loan to the public, wit
h appropriate protection for trade secrets. Finally, it appears from the SAR that Bank funds may

be used to pay for environmental, safety or industrial hygiene consultants for industry.[2] Given the wide range of immediate threats to health and the environment along the border, Bank funds should not be used for such purposes absent a strong showing of need and conditions for demonstrable environmental improvements from the use of loan monies.

Although it is laudable to utilize occupational health Comites Mixtos to "attend to and prevent environmental problems", some of these fund should be utilized to integrate these committees into the existing public municipal and binational environmental committees and councils that have been established in the Mexican border region. The education program as described could increase consciousness of hazards within industry, but to effective and to truly encourage public participation in the regulatory process, the program must also expand public accessibility to the same resources.

Para. 3(c)(ii) Community Participation: This element proposes preparation of a "state-of-the-environment" report for the border in collaboration with "federal and state environmental agencies, universities and the private sector." The term "private sector" is generally used throughout the SAR and other Bank documents to refer to private industry, not the public at large. If that is the intended use, then this element appears to completely exclude the public and NGOs from participation in the state-of-the-environment report, something we strongly oppose. If that is not the intended approach, the SAR and loan conditions should expressly state that Mexico is required to allow full public participation in preparation of this report.

The proposed "media campaign" would seem to be a dubious use of funds, given the wide range of imminent health and environmental threats in the border. It is our experience that communities tend to be far more aware of both the general problems and strategies and funds would be put to far better use by institutionalizing the inclusion of community members in the regulatory process and providing agency assistance to the local communities to monitor and regulate their own problems.

Para. 3(c)(iii) Public Complaints System: While the SAR states that SEDESOL received over 4,000 environmental complaints between July 1992 and August 1993, it fails to discuss how many, if any, of these complaints were resolved to the satisfaction of the persons lodging the complaint. Information and experience indicates that many complaints to SEDESOL either are not responded to at all or are not responded to in an adequate manner. The Bank staff seems either unaware of this problem or unwilling to acknowledge it.

The Bank staff solution seems to be to throw almost $ 3 million U.S. at the complaints process, rather than understand the factors that have undermined its effectiveness and attempt to remedy those factors. Moreover, the SAR does not propose any evaluation or phased distribution of the funds under this element which would allow the Bank or the public to determine whether, in fact, the additional funds had made SEDESOL's complaint response

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[2]The element includes funds for "the services of environmental experts to the local multi-disciplinary team that advise industry and the local mixed committees..."

process any more effective. Such conditions are absolutely critical to ensuring efficient use of Bank funds in this element. Also, the loan should require that SEDESOL publicly issue a semi-annual compilation of complaints and response actions.

Finally, it is our experience that state and municipal authorities have not participated in responding to SEDESOL-PFPA complaints and that common strategies to respond are non-existent, a condition that should be remedied in this "strengthening element."

Para. 3(b(ii) Management Information System: This proposal for integration of databases, coordinating site inventories, audits, etc. is an appropriate component in which to create retrievable public access to data—a general concern in all of these comments. The information should be assembled in a manner that allows public access by personal computer (i.e. some sort of bulletin board system).

**Section B: State and Municipal Authorities**

Paras. 5-9: The SAR touts the approach used in the MEP loan for strengthening environmental management at the state level, referring in particular to Tamaulipas. Yet the SAR ignores what are apparently significant problems with the MEP's implementation in Tamaulipas—lack of salaries for inspectors trained with World Bank funds, lack of salaries for qualified personnel to staff brand new environmental analysis labs built with World Bank funds and total lack of public participation in loan implementation, to name just a few. Without an analysis of why these problems occurred, it is difficult to suggest Bank loan conditions that could prevent them from occurring under this new loan, *but it something that the Bank decision-makers should investigate and remedy before approving funds for this element.* The loan should contain specific conditions for public participation in implementation of this element. In addition, it would be extremely useful for the Bank to require a periodic (annual) review of implementation of this section of the loan, with copies of the review being made available to the public in the states receiving loan monies.

The Bank should have required that Mexico begin development, in concert with state and local governments, of a permit/user fee structure to provide an on-going source of revenue for local and state environmental regulatory efforts. Many U.S. states and localities are using such fees to fund their environmental programs. Without this option of generating revenue, it is unlikely that municipalities can offer a real "guarantee of sustainability of project activities" as required by Para. 9 of the SAR. In addition, the state/local element is an appropriate avenue for fostering development and implementation of right-to-know programs.

Paras. 10-17 Infrastructure Finance and Administration: The goals of this element of the loan are laudable: municipal finance in Mexico is in great need of improvement. However, this is also an area where the loan should provide specific procedures (as loan conditions) to ensure that Mexico gathers a wide range of public input. The public response to the imposition and collection of user fees is likely to be significantly more positive if there has been an effort to involve them in understanding why user fees are necessary; in understanding what procedures will be put in place to ensure the fees actually will go to support necessary services; and in demonstrating that industrial users will pay their fair share of user fees under a progressive

structure that recognizes their heavy contribution to infrastructure stress in the border region and that recognizes industry's potential disproportionate benefits from installation of new infrastructure.

In addition to specific conditions for public participation, the Bank should pilot this element of the loan in one or two border municipalities, and then make public a full evaluation of the success of this approach before full disbursement of the full $ 18 million.

The need for pilot projects at the municipal level which include public participation is especially important given the Bank's plans for issuing a subsequent state and municipal development loan.

**Section C: Industrial and Hazardous Waste**

Para. 18(a) National Strategy for Hazardous Waste: The Bank must not support any program to address treatment and disposal of hazardous waste facilities until it has been preceded and accompanied by the development of a clear national hazardous waste strategy involving full public participation and comprehensive, publicly accessible, cradle-to-grave inventory and tracking systems for hazardous wastes. There are several other specific concerns related to this element.

First, this is clearly an area where public participation should have been sought in the loan's design phase, but was not. Second, the need for strong and meaningful public participation in implementation of this element cannot be over-emphasized. Mexico can avoid the mistakes made in the U.S. by involving the public and key NGOs early on in the development of national hazardous waste policy.

Specific loan conditions for public participation, including notice and opportunity for written comment and well-publicized, accessible public hearings, should be added for this element.

Second, while the general hierarchy of waste management set out in the policy statement in Para. 18 seems reasonable, it is hardly a sufficient guide for implementation of hazardous waste policy at a national level. For example, while "source reduction" is stated to be the first preference, there is no elaboration as to what criteria will be used to in determining when other options can be used. Is it technical feasibility, economic feasibility, or a combination of both?

Third, the proposed inventory of industrial wastes generated by border industries and the capacity assessment should both be made available to the public in Mexico, under a specific loan condition. In addition, the proposed process to "determine the . . . location for [hazardous waste] off-site recycling, treatment and disposal facilities" should be a public and open process. **This element clearly warrants a Category A Designation and a full Environmental Assessment before implementation begins. Because this element does not appear to be scheduled to begin until at least after the project's first annual review, there is sufficient time for an EA to be prepared and for NGO and public involvement in the EA process. Failure to require an EA for this element would very obviously violate the Bank's**

**Operational Directive 4.01.**

Finally, the inventory process and the determination of locations for hazardous waste facilities require a coordinated effort, both in the border region and throughout the country. This is necessary to a serious evaluation of state-of-the-art hazardous material management options, rather than just trying to find the sites for large-scale hazardous waste disposal sites. Available capacity at U.S. facilities to manage waste from Mexico could also be considered i n the assessment process (for example, Texas has a large excess of capacity in injection wells).

Para. 18(b) Technical Assistance to Industry: See comments on Para. 3(a)(iii), above.

Para. 18(c) Mobile Hazardous Waste Treatment: While this sounds like an appealing idea, it appears from technical sources in the United States that mobile treatment units have generally not been successful, unless designed for one or two specific waste streams. The technical feasibility of this element is doubtful and it may keep small and medium industries from focussing their attention on source reduction or recycling alternatives.

Section D: Protection of Ecological Areas and Biodiversity

Para. 19(a) Protected Areas: While we generally support this element, we are concerned with the sentence that states that "the Government and the Bank have agreed that there would be no conditions of disbursement for the preparation of decrees, management plans, operating plans or interim plans."While the wording is less than clear, we are concerned that this means no public participation is required in this element. If so, that is directly contrary to the Bank's own Operational Directive. Also, the GEF component of the MEP expressly required public participation for the preparation of management plans for the 17 protected areas under that loan.

Moreover, while the SAR identifies such areas as the Laguna Madre de Tamaulipas for protected area status, there is no analysis of whether this status is actually being considered by Mexico. In fact, the state government of Tamaulipas is currently promoting an intracoastal barge canal and massive tourist and industrial developments along the Laguna Madre, something that is clearly inconsistent with protected area status. Information indicates that the Mexican federal government has given its tentative approval for Tamaulipas to proceed with the canal project.[3]

There has not been sufficient time to thoroughly review this element of the proposed loan.

Section E: Analysis and Coordination

Paras. 20-22: Analysis and Coordination: It is not enough for the Oficina de Analisis y Seguimiento del Proyecto (OASP) to coordinate between SEDESOL and BANOBRAS when, in

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[3]Texas Center for Policy Studies, Preliminary Report on the Proposed Mexican Intracoastal Waterway (April 1994).

reality, it is difficult to arrange coordination between SEDESOL's own INE and PFPA. A key element of any efforts to coordinate the development of pilot projects and implement the institutional strengthening components of the NBEP must involve coordination between the loan's technical and regulatory elements and the general public, especially the communities affected by proposed projects. Specifically, project coordination must involve public reports and reviews concerning pilot projects, full environmental assessments, and comprehensive information storage and dissemination systems which are accessible to all governmental agencies at the local, state and federal levels as well as to the general public. (See Bank Operational Directive OD 4.01, Para. 18).

## II. ENVIRONMENTAL SERVICES IMPROVEMENT

### Section A: Water Supply and Sanitation

Paras. 23-26 Water Supply and Sanitation: The primary concern in this area is that the World Bank and the Government of Mexico should coordinate use of loan monies under this component with the activities of the new Border Environmental Cooperation Commission (BECC) and the North American Regional Development Bank (NADBank). This coordination is essential to the wise use of the limited NADBank resources and to achieving a consistent approach to border infrastructure development.

### Section B: Solid Waste Management

Paras. 27-34 Solid Waste Management: There has not been sufficient time to review this component in detail. Moreover, after literally months of requests, the environmental assessments for some of the individual solid waste projects are said to finally be "in the mail." Once these EAs have been circulated and evaluated, more detailed comments will be provided.

### Section C: Air Quality, Urban Transport and Paving

Paras. 35-46: Again, lack of sufficient time prevents detailed comments on these aspects of the proposed loan. However, the general comments above (regarding the need for explicit loan conditions on public participation and public access to information) apply equally to this element. In addition, many of the sub-elements appear to require Environmental Assessments under Bank guidelines (see, e.g., Paras. 35(a) road construction; 35(b) preparation of transportation plans; and Para. 35(c)(ii) traffic management measures.

**The World Bank**
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
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June 7, 1994

Ms. Kay Treakle
The Bank Information Center
2025 I St NW, Suite 522
Washington D.C., USA

Dear Ms. Treakle:

*Mexico - Northern Border Environment Project*

Thank you for your recent letter regarding the proposed Mexico Northern Border Environment Project (NBEP).

I am pleased to respond to the questions and concerns you raise, and attach a note that addresses them in detail. We prepared this note in response to the more detailed letter that your organization and others sent to us June 1 on the same subject.

One of the principal points of emphasis in the note is that Bank procedures have been properly followed. We agree that public consultation is important and anticipate that substantial additional consultation will take place before specific subprojects are approved and funded under the project (see attached note, para. 4). But on the question of whether Bank procedures have been followed, it is clear that yes they have.

In that regard, it might be also helpful for you to note the following. (1) The border cities to be funded under the project will be selected during implementation of the project based on thorough evaluation of the detailed plans and proposals, including environmental assessments, that eligible cities must prepare and submit. (2) Thus, no city or investment has been selected or approved yet and there will be ample opportunity for public scrutiny of proposed investments before they are approved. (3) This type of project design is well-established practice in the Bank and the Bank's environmental assessment procedures allow for it (O.D. 4.00, Annex A, para. 14). (4) The required appraisal of implementing agencies' capabilities for EA was performed. (5) Three cities (Tijuana, Matamoros, and Reynosa) were examined in more detail to assess the sorts of problems that would be encountered; but if any of these cities is among those finally selected, significantly more analysis would be done. (6) This sample of three cities is adequate given that only five or six cities in total will receive investment subproject funding under the project.

I would also like to express our gratitude for your attention to this project. Your letters helped us focus on an area where we could improve our operations so that the interests of broad public access to information on our projects will be better served. We are now taking steps to operationalize these improvements.

This relates to the environmental assessment work done so far for the NBEP being undertaken in conjunction with similar work for the related Second Solid Waste Management Project. From the outset we were careful to ensure that we met the requirements for both projects, and that the advantages of doing the two in conjunction (more in-depth analysis more cost-effectively) were realized. The results have shown that this approach does indeed have merit. However, in the final writing up of the findings, the group of outside expert consultants that helped in the assessments prepared only one Executive Summary (ES) document for the two projects together and, in the title of the ES, inadvertently included only the Second Solid Waste Management Project and omitted reference to the NBEP. (The fact that the ES and supporting detailed documents were clearly intended from the outset to apply to both operations is indicated from the sentence to that effect in para. 2 of the ES and in project preparation documents since mid-1993 -- all of which were written *before* February 1994.) Nevertheless, the inadvertent omission of the NBEP from the title would understandably make it more difficult for interested parties to grasp quickly the full nature and extent of the work that has been done, and locate the materials in the Public Information Center. To address that issue, we have now placed in the Bank's Public Information Center a second ES that is identical to the first one but specifically refers to the NBEP in the title. In addition, we are ensuring that similar problems do not arise in other situations in future.

Once again, thank you for your interest and for sharing your concerns with us.

Sincerely,

David de Ferranti

David de Ferranti
Chief
Country Operations I and Environment Division
Country Department 2
Latin America & Caribbean Region

6/9/94

**World Bank Comments on Letter of June 1, 1994
from a Group of NGOs Concerning the
Proposed Northern Border Environment Project (NBEP) for Mexico**

1. The World Bank welcomes comments and suggestions from all sources and appreciates the input provided by this letter. A number of the points made in this letter are points that the Bank and the Mexican authorities agree with and have taken into account in the design of the project. The following comments seek to correct some factual errors and clear up some misinterpretations.

2. First, it is important to stress that all World Bank policies regarding environmental assessment have been followed in the preparation of this project. The procedures require, first, that all project components be screened at identification to determine the nature and extent of the environmental work required (O.D. 4.01, para. 17). This was done. The Task Manager should then screen each component and then determine the environmental screening category[1] for the project as a whole, with the concurrence of the Regional Environment Division. This too was done, and the project was rated "A", due to the solid waste component. The subsequent Environmental Assessment work has focused primarily on this component, which is entirely consistent with the O.D. relating to environmental assessment (O.D. 4.01, Annex E, Para. 2). The remaining components were considered to be either "B" or "C". The procedures also note that coordination among government agencies is crucial to ensure that all relevant entities collaborate effectively (O.D. 4.01, para. 19). Extensive interagency meetings were held during project preparation with all pertinent authorities at the federal, state, and local level, and provisions have been included in the project to facilitate continued coordination during project implementation (for example, establishment of a coordination unit is a condition for project effectiveness).

3. The procedures further require that affected groups and non-governmental organizations be consulted (O.D. 4.01, paras. 19 and 20) in the case of components requiring a full EA (i.e., rated "A"). Consultations have been held with over 20 organizations and citizens' groups, and extensive further consultations will be held before individual investments are approved. We understand from the letter that the authors feel that consultations should be held with a larger number of organizations and community groups, and in more depth. We are sympathetic to the view that increased public consultation is beneficial, and anticipate that substantially more will be sought during project implementation. With regard, though, to the narrower question of whether Bank procedures have been followed thus far, the answer is emphatically yes, they have. In addition, the procedures regarding disclosure of information (O.D. 4.01, paras. 21 and 22) have also been followed (see para. 5 below).

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[1] For category "A", a full EA is required. For category "B", environmental analysis is required, although full EA is not. For category "C", no EA is required.

4. Further, it is important to underscore that the appropriate level of environmental assessment (for "A" rated projects) or analysis (for "B" rated projects) will be undertaken for each investment subproject before the Bank and the Mexican authorities approve it for funding. The investments in this project follow what is known as the sectoral approach[2]. Subprojects (a typical example might be a proposal to improve a water treatment facility in a specific city along the border) will be identified during the project's implementation. Local authorities interested in receiving project support will prepare detailed proposals based on thorough evaluation of the problems, options, and effects of recommended actions. Such proposals will have to be approved by the World Bank and by relevant Mexican agencies at the central and state levels, including SEDESOL. Those approved will have to meet the most stringent environmental standards applicable for that locality and complete whatever environmental assessment or analysis is required in compliance with Bank procedures as described in O.D. 4.01. The project will provide technical assistance and financial support to the cities for this planning and proposal preparation process. Public consultation will be held as soon as possible, as part of the assessment process for particular investments, once the specific proposals have been developed.

5. In addition, we have taken, and will continue to take, further action to comply with the conditions of the "A" rating for the solid waste component. The Bank and the Mexican government conducted a series of environmental studies prior to project appraisal. An independent consulting firm assessed the capacity of the Mexican institutions to undertake these site-specific environmental assessments for individual investments. In addition, master plans were prepared for three cities along the border (Tijuana, Reynosa and Matamoros), and a further three (Juárez, Ensenada and Piedras Negras) are close to completion. These master plans consist of (i) a diagnostic; (ii) an analysis of alternatives; (iii) an outline of the proposed investments; and (iv) an environmental assessment of the master plan. They involved a series of meetings with local groups. These studies were reviewed by the Bank's regional environmental division, revised where necessary, and then approved as meeting the requirements of the Bank Operational Directives. A summary of the environmental assessment was provided to the Board of Directors on February 2, 1994 and has been publicly available in the Public Information Center (PIC) since then (although there appears to have been some confusion related to the newness of the PIC that delayed their sending this document to the public in some cases). The detailed supporting documentation has been in a special public access location in SEDESOL's documentation center in Mexico City since February 11, 1994. This summary covers the requirements for the solid waste component of the Northern Border Environment Project, as well as those for the Solid Waste Project with which it is closely linked. We apologize for any confusion caused by the fact that the cover page of the summary inadvertently omitted reference to the Northern Border Environment

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This project follows the sectoral approach, which involves defining a universe of possible beneficiaries, then establishing iteria for access to the funds In the NBEP, the universe of beneficiaries consists of the 30 municipalities within the 100 km rder zone of which approximately one third could meet the various eligibility criteria for investment subprojects in water pply and sanitation, solid waste, air quality/urban transport. The project has funds for infrastructure investments in all three ctors for some 5-6 municipalities. The Bank has used this approach in many previous projects

Project. However, the fact that the summary and supporting detailed documents clearly were intended from the outset to apply to both operations is evident from the sentence to that effect in paragraph 2 of the summary.

6. To address other specific points raised. The letter states that the loan does not contemplate a permit/user fees system. On the contrary, this project does address user fees for infrastructure investments. The water supply and sanitation and solid waste management components do consider pricing issues, and the use of user fees, in line with the requirements of the corresponding sectoral projects. The Bank is assisting BANOBRAS in formulating a policy for increasing private sector participation in the water sector. Investments in water supply and sanitation have to adopt a tariff system that will cover at least operating and maintenance costs (excluding depreciation) and debt service (p. 21 of the Second Water Supply and Sanitation Sector Project SAR). A criterion for eligibility for funds from the solid waste sub-component is that the municipality has committed to service charges that will achieve full cost recovery (p. 62 of the SAR). See also the policy letter from the Mexican government (p.76 of the NBEP SAR).

7. The letter mentions that the project does not involve sufficient inter-agency coordination. We agree that coordination is crucial, which is why we made the establishment of the *Project Office of Analysis and Follow-up* (OASP) a condition of effectiveness of the project, and why we paid great attention to the establishment of a Management Information System.

8. The letter states that the project does nothing to foster involvement of the public or local governments, or public access to documents and data. On the contrary, the project includes several specific activities to address these issues specifically:

- The subcomponent for the Office of the Deputy Attorney General for Community Participation contains Bank financing of US$3.7 million for informal environmental education through mixed committees of employers, employees and government representatives; US$0.68 million for a media campaign about environmental protection and preparation and publication of a "State of the Environment" report; and US$2.9 million for strengthening the public complaints system (p 50 of the SAR).

- the subcomponent designed to strengthen environmental management of the state and municipal authorities aims directly at increasing local governments' capacity for and involvement in environmental management (p. 52 of the SAR).

9. Although the letter states that the project does nothing to address failings in Mexico's regulatory regime, the project does include such provisions. The project supports preparation of state and municipal environmental regulations and standards (p. 52 of the SAR). The project also supports activities to help develop Mexico's hazardous waste management policy (p. 56 of the SAR). Moreover, the Bank currently has a project under

supervision, the Mexico Environment Project Ln. 3461-ME, designed specifically to support strengthening the regulatory regime, amongst other things.

10. The letter mentions a previous incident (unrelated to the NBEP) where Tamaulipas state counterpart funding was unavailable for inspectors' salaries. For the NBEP, the Government of Mexico has committed US$60 million to pay salaries of new staff, including an additional 630 inspectors. In addition, one of the agreements reached for this project are semi- annual reviews that will include formalizing arrangements for counterpart funding (p. 32 of the SAR). Through this project, the Bank and the Government of Mexico have explicitly incorporated lessons from past projects and are attempting to address some of the problems that have hampered environmental management in Mexico in the past.

11. The letter points out some areas in which the authors consider the project may hamper efforts that are national in scope. It refers to a system to track cross-border movement of hazardous waste (p. 49 of the SAR). This program is to bolster an existing system that the Mexican authorities have developed in conjunction with the US EPA to address the specific issue of maquiladora wastes. The project will also assist the Mexican authorities develop an effective national program to track and monitor all hazardous wastes (p.54 of the SAR).

12. With regard to the comment about the loan's hazardous waste activities, we would like to stress that the loan does not involve hazardous waste facility siting or hazardous waste transport. The hazardous waste component of this project provides for a series of studies to help the government augment its national hazardous waste policy process, for technical assistance to industry to help them install pollution prevention and control equipment and a pilot program of transportable hazardous waste treatment units. The project will not support any hazardous waste transport. The letter also suggests that the institutional strengthening aspects of the loan should be subject to EAs. These parts of the project involve training, technical assistance and studies. As part of project preparation, the Bank examined the implications of the strengthening activities proposed and found them not to cause significant environmental damage.

13. In response to additional points raised in Attachment A to the letter:

**Section A: Federal Authorities**

14. Contaminated Sites. The project will not fund any clean-up of contaminated sites. The authors feel that Bank funds should not be used for detailed analysis of sites where financially solvent responsible parties can be located. The project will fund an inventory and preliminary analysis of contaminated sites in the area. Twenty sites will then receive detailed analysis of clean-up options. Criteria such as that suggested will certainly be taken into account when selecting these sites. Issues of public involvement in information gathering and the list of sites will be finalized during project implementation. Clearly, local residents will be a crucial source of information. The fourth point mentions institutional linkage for facility permitting in the vicinity of contaminated sites. This will be considered during project implementation.

15. Environmental Emergencies. The letter states that this does not seem to be a border component. They are right: the PFPA component is national in scope. It will build on the successful experiences in the border cities to strengthen emergency preparedness systems in border cities and replicate relevant aspects on a national basis. The municipal strengthening component has provisions for financing equipment and technical assistance for handling local environmental emergencies at the border, subject to requests from local governments. The PFPA will coordinate with local officials in planning emergency responses.

16. Environmental audits. The letter is unsure of the scope of this program. Small and medium enterprises will receive partial funding for environmental audits if they are in one of ten priority industrial sectors and are in one of the border states or Veracruz, Jalisco, Estado de México or Guanajuato (SAR p. 57). Environmental audits are carried on the understanding of confidentiality. For this reason it will not be possible to make them public, but the aggregated results may be published at some future stage. The letter suggests that the industries should be liable to repay any subsidies they received for the audit if they fail to implement its recommendations. The PFPA plans to ensure that its inspection program includes firms that have undergone these audits to ensure that they implement the results and apply penalties to any that remain out of compliance with Mexican law.

17. Enforcement Staff Expansion. The Government of Mexico has committed US$60 million to finance salaries of new inspectors. This will be monitored through the semi-annual reviews (see para. 10 above). In this and the preceding points the letter states that coordination between INE and PFPA is crucial. This is highly important and both institutions are continuing their efforts to improve coordination. Some activities of the NBEP, such as the information system, will support these efforts.

18. Lab Quality Assurance Program. The letter states that inter- and intra-agency training and joint use of state and federal labs is vital to ensure efficient use of resources. QA/AC should be coordinated between these entities. This valid point will be considered.

19. Hazardous Waste Information Systems. The project supports studies to augment the government's hazardous waste policy. The public will be consulted in the course of these studies and once a draft policy has been developed. With regard to the hazardous waste tracking system for maquiladora wastes, the Bank project will support the expansion and full operation of a system that INE and US EPA have already developed.

20. Informal Environmental Education. The project will follow the existing criteria for selecting representatives on the mixes committees. The letter asks whether Bank funds will be used to provide industrial hygiene, environmental or safety consultants to industry. Bank funds will be used for suitable experts to provide training to these committees.

21. Community Participation. The term "private sector" is intended here to mean industry, universities and NGOs. Any relevant information will be considered in the preparation of the State of the Environment report. The letter's authors believe the media campaign to be an inefficient use of funds. The Bank, however, believes it to be important

to involving the communities in local environmental initiatives, and consistent with many of the ideas regarding public participation expressed in the NGOs' letter.

22. Public Complaints System. The project will support PFPA's capacity to receive and resolve public complaints. The Bank will be tracking the rate of satisfactory resolution of complaints in this project (SAR p. 133). The project's state and municipal environmental strengthening subcomponent is expected to include provisions for improving these entities' capacity to respond to public complaints.

23. Management Information System. The possibility that the letter suggests for electronic access to data through the MIS will be considered.

**Section B: State and Municipal Authorities**

24. Environmental Management. The letter suggests that the project should learn from problems with the implementation of the Mexico Environment Project (MEP). The Bank and the Government of Mexico have both taken the lessons from the MEP into consideration in the design of this project. Particular attention has been paid to the issues of counterpart funding and the mix of resources. As mentioned above, the project does explicitly require user fees to ensure cost recovery for infrastructure projects.

25. Finance and Administration. The letter commends this initiative, yet suggests that the efforts be piloted in two municipalities before disbursement of the full amount We feel that the needs in the border cities are immediate and there is no need to pilot activities of this type. Public consultation will be considered in implementation of this subcomponent.

**Section C: Industrial and Hazardous Waste**

26. National Strategy for Hazardous Waste. The authors are concerned that the Bank will finance programs to address hazardous waste facilities before the government has developed a clear national strategy for these materials. Development of such a strategy is precisely what this subcomponent was designed to finance, and the project does not provide financing for any hazardous waste facilities. The letter asks which criteria will be used in determining which options (source reduction, recycling, treatment, disposal) will be used. We intend the studies to help define these criteria. We understand that the Mexican Government is planning to publish the inventory. Contrary to the letter's assertion, this element does not require a category "A" rating for environmental assessment, because it is financing a series of studies.

27. Mobile treatment. The letter states that mobile treatment is an appealing idea but has been unsuccessful in the U.S., except for one or two specific waste streams. We intend the mobile treatment to be used for a few specific waste streams generated in the border area, and are financing a study to determine, amongst other things, which wastes these shall be. The project will support a pilot program of mobile treatment, with the precise aim of testing the technology's feasibility and cost-effectiveness. Furthermore, we understand that the

technology has been used successfully in California and in Europe, and we expect demand to be high in Mexico, given the lack of existing treatment facilities.

**Section D: Protection of Ecological Areas and Biodiversity**

28. The letter is concerned that the Bank requirement of a decree conferring protected area status, and that therefore no public participation may be required in this element. This is not the meaning of the sentence the letter refers to (p59 of the SAR). In fact, it means that the Bank will financing decree preparation, which is by law a participatory process.

29. The letter also states that there is no analysis of whether Mexico is considering the Laguna Madre de Tamaulipas for protected area status. The Government of Mexico is considering this, which is why they asked us to include the Laguna Madre in this component.

**Section E: Analysis and Coordination**

30. The letter states that the project's provisions to ensure interagency coordination are insufficient. The project has been designed to maximize coordination within agencies (e.g. project units in INE and PFPA) and between agencies (OASP). Agency coordination will also be maximized wherever relevant to public participation and consultation.

**Environmental Services Improvement**

**Section A: Water Supply and Sanitation**

31. The letter suggests that the Bank and the Government of Mexico should coordinate with the NADBank and the BECC for this component. The Bank does not believe it is necessary to wait for these institutions to become fully operational before beginning these urgent investments. Local authorities, the Government of Mexico and the Bank will, however, operate in close contact and cooperation with the NADBank and the BECC.

.Activists (8)

An Inter Press Service Feature

By Pratap Chatterjee

WASHINGTON, Jun 6 (IPS) - A World Bank loan to clean up toxic waste on the U.S.-Mexican border, to be approved Thursday, needs more public consultation and better environmental study, according to 30 activist groups from both sides of the border.

The loan is part of a 918 million dollar package to treat waste, help cities design environmental action plans, improve water supply and sanitation as well as strengthen SEDESOL, the Mexican environmental agency. The Northern Border Environment Project, as the loan is called, totals 368 million dollars.

The 30 groups, who sent a letter to the Bank's executive directors ten days ago, include the Arizona Toxics Project, Greenpeace, Proyecto Fronterizo de Educacion ~~de Educcion~~ Ambiental in Tijuana, and Red Fronteriza de Salud y Ambiente in Hermosillo. German and Australian groups have also sent letters of protest to their government's representatives at the Bank.

They charge that the Bank has not provided adequate information to the people affected by the project and that proper environmental assessments have not yet been conducted.

U.S. Congressional representatives Joseph Kennedy and Nancy Pelosi are also drafting a letter to the Bank on the same matter.

Dick Kamp of the Border Ecology Project in Bisbee, Arizona, said he tried to obtain the appraisal report for the loan but was unable to get it from the Bank. He said his group received a copy of the report from Mexican officials concerned about the project.

Kamp told IPS this week that the project document fails to address key problems at the border, including the absence of any publicly available data on the extent of the problem and the failure of Mexican officials to follow up on public complaints.

He also charged that Mexico's failure to adequately tax industrial polluters along the border is also not addressed in the loan.

The 30 groups are now asking the Bank to delay approval of the loans until these and other questions can be addressed.

''It is unecceptable that there has been no environmental impact assessment procedure or meaningful public consultation process to develop the components of the loan,'' they wrote.

(MORE/IPS)

Activists(2)

The letter was taken up by Jose Luis Samaniego, the director of environmental planning at SEDESOL, and the Bank's task manager for the project, Chuong Ngoc Phung at a meeting in Mexico City last week.

At that meeting, the two men agreed to strengthen the consultative process. Chuong told IPS Wednesday that public access to key documents had been difficult but said that all operational manuals for the project will from now on require consultation with local groups.

''I apologise for the problems that they have had in getting documents. I personally found the document in the public information document centre but with difficulty. The centre, which is very new, was not very well organised as it was just being set up,'' Chuong told IPS.

While gratified by the new policy, Kamp told IPS that he still wants a delay in the project's approval.

''The way they proceeded was neither intelligent nor democratic,'' he told IPS Wednesday. ''We do not oppose the loan and we would work to improve it, but it was very difficult to get any information,'' he told IPS Wednesday.

The issue has been raised with U.S. government officials and sources told IPS that Jan Piercy, the U.S. representative at the Bank, will make a statement at the Thursday meeting emphasising the need for proper consultation with local groups.

Kamp says that he still has problems with the loan because it does not appear to be self-sustaining. Instead, it appears to be politically motivated, he said.

The package was first announced last September as the administration of President Bill Clinton tried to drum up support in Congress for the North American Free Trade Agreement (NAFTA), which was approved in the face of significant opposition.

''It's no coincidence that this loan was put together weeks before the NAFTA vote in Congress,'' said Geof Land of the Border Ecology Project.

In the United States, environmental clean-up is funded, in part, through fees paid by industry. But the loan does not mention specific ways of taxing large polluters who benefit most from NAFTA. Meanwhile, the loan will be added to Mexico's 113 billion dollar debt -- already double the level in 1980.

Chuong says that the loan will only be available to those cities that can demonstrate that they have adequate ways to repay the loan. Poor regions will have to be funded through Mexican government grants, he added.

This position worries the groups who say they believe that the ''polluter-pays'' principle which prevails in the United States should apply as well in Mexico.
(MORE/IPS)
[illegible]XICS: Delay World Bank Clean-Up Plan, Say Activists(3-E)

''The only option Mexico really has for developing a self-sustaining, strong environmental programme is the institution of a permit/user fee structure for industry,'' the letter says.

The activists are also concerned that the project has been put together in too hasty a manner without adequate assessment of its environmental effects.

''We understand the need for access to capital,'' says Enrique Medina, an environmental advisor for several Mexican non-governmental groups.

''But the loan unfortunately could negatively impact the environment through hasty implementation of the hazardous waste facility siting, transportation and wastewater infrastructure projects.'' Medina says.

But Chuong told IPS that only the solid-waste treatment part of the loan -- which will cost 14 million dollars -- is likely to have a major environmental impact warranting a full-scale review.(END/IPS/PC/DC/94)
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JOSEPH P. KENNEDY II
8TH DISTRICT, MASSACHUSETTS

COMMITTEE ON BANKING
FINANCE AND URBAN AFFAIRS
SUBCOMMITTEES
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# Congress of the United States
## House of Representatives
## Washington, DC 20515-2108

June 9, 1994

Jan Piercy
United States Executive Director-Designate
The World Bank
1818 H Street, N.W.
Washington, D.C. 20433

Dear Ms. Piercy:

I am writing concerning the World Bank's proposed Northern Border Environmental Areas Project (NBEP) loan. Several environmental organizations in the United States and Mexico have brought to my attention concerns regarding the procedures to assess the environmental impact of the proposed loan, and the opportunities that were provided for public participation and consultation with local communities, interested parties or environmental groups along the border area.

I understand that non-governmental organizations have been trying since February to get information on the NBEP and the environmental assessment documents of the related Solid Waste Management loan. They received the environmental documents after a May 18 communique from the Bank's Public Information Center, for a loan that is scheduled to go before the Bank's Board of Executive Directors this week.

Many organizations consider the NBEP a genuinely constructive attempt to provide technical and financial resources to address severe environmental regulatory and infrastructural problems in the border region of Mexico. My support for the North American Free Trade Agreement and for a strong relationship between the United States and Mexico is motivated in part by our determination to help meet these and other environmental challenges.

To ensure that the NBEP serves as a positive precedent to encourage more open Bank procedures and that the project benefits fully from consultation with local communities and other interested parties, I would encourage you to include the following themes in the statement from the U.S. Executive Director concerning the project, as well as in the Operations Manual.

- The environmental assessments that are to be carried out for subcomponents of the loan should be conducted in full consultation with border communities and non-governmental organizations, with early and ongoing access to information and public participation.

THIS STATIONERY PRINTED ON PAPER MADE OF RECYCLED FIBERS

- A mid-term review should be conducted in order to evaluate implementation and guarantee public involvement in further planning and implementation of component projects.

- As provided for in the Bank's environmental assessment policy (O.D. 4.01), the Bank should consider establishing an independent Advisory Panel of experts, including representatives of non-governmental organizations, to develop the terms of reference for sub-project environmental assessments and advise on aspects of public participation and implementation of NBEP-Phase I loan and other World Bank loans which affect the northern border regions.

I appreciate your attention to these concerns and look forward to working with you on this and other projects to address the environmental challenges facing the northern border areas.

Sincerely,

Joseph P. Kennedy II
MEMBER OF CONGRESS

JPK/was

APPENDIX III

Mr Lewis T. Preston
President
The World Bank
1818 H Street N.W.
Washington, D.C.

By Fax : +1 202 477 5584

From : +977 1 220161 (fax) +977 1 220572 (tel)

May 16, 1993

Dear Mr Preston,

The Kathmandu-based 'Alliance for Energy' is an alliance of professionals committed to helping to find answers to Nepal's energy crisis. We are concerned that the proposed 'Baby Arun' hydroelectric scheme is not the most appropriate approach to providing for Nepal's current and future energy needs.

We would like to articulate our concerns about the Baby Arun scheme and outline the alternative approach that we espouse.

CONCERNS ABOUT THE 'BABY ARUN' SCHEME

* *With a current price tag of $764 million, the scheme will cost one and a half times the national budget. This is a major financial commitment, way beyond Nepal's limited resources.*

Although much of the loan is being made available on concessionary terms, it is still a huge burden for a country with such a limited budget. One third of the country's national revenue already disappears into loan repayments. Since only 9% of the population has access to electricity, the whole country will subsidise the benefits enjoyed by a few. Large, centralised power schemes like Arun will not help the remaining 90% gain access to electricity.

Even to those who will benefit from Arun, the cost will be very high. Despite concessionary terms on the loans from the World Bank and Asian Development Bank to His Majesty's Government of Nepal (HMG/N), the Nepal Electricity Authority will be required to make payments to HMG/N for the loan at an interest rate of 10.25%. This cost will ultimately be borne by the consumer, who will pay very high electricity tariffs.

* *Constructing Arun means depriving the other parts of the country of hydropower development.*

Constructing 10 schemes to generate the 201MW that the single 'Baby Arun' is designed to, would allow for regional balance in the development of hydropower. The creation of infrastructure, jobs and overall economic development that the advent of hydropower can have in a rural area would be distributed to a number of districts in the country.

If it goes ahead, Arun will use up all the resources that Nepal can gain access to for hydropower development for the next decade to the exclusion of smaller schemes.

* *Public participation in the scheme has been inadequate.*

Despite requests to the Bank and to the Nepal Electricity Authority (NEA), no Nepali NGO, other than those commissioned by the Bank or the NEA to undertake work for the project, has been able to gain access to the environmental impact assessment or other relevant documents. Only two NGOs were consulted about the scheme, and their participation was limited to investigating means of mitigating the impact of the scheme, not as to whether or not the scheme was appropriate. No public hearing has been held by the Bank or the NEA. The negotiations on Arun III between Government and the donors have been shrouded in secrecy. These procedural omissions contravene the Bank's own guidelines.

The local population has been 'sold' the project on the understanding that they will have a road and electricity. In reality, they will get neither, now that the road alignment has been changed and NEA has deemed that rural electrification is not cost-effective.

* *Given Nepal's current development status and priorities, Arun could do more to damage than enhance the country's overall development prospects*

Nepal is one of the 10 poorest countries in the world. Its most urgent needs are for the basic services of clean water, sanitation, health and education. While electricity is high on the list of priorities for Nepal's rural communities (which represent 90% of the population), they stand little chance of gaining access to Grid electricity even in the long term. Stand-alone mini- and micro-hydro schemes offer the only realistic option for many of these communities ever to benefit from electricity.

Given the Bank's emphasis on 'poverty alleviation' strategies for development and the recent concerns raised in the Wappenhams Report about the 'sustainable development impact' of its projects, how does it justify the construction of Arun, which will benefit so few, generate no income for the country and increase its burden of debt?

* *The scheme will cost $3,800 per installed kW. Private companies in Nepal can and are building small and medium hydro schemes (up to 60MW) at half that rate.*

In the light of the high cost of power production, it seems surprising to us that Arun came out as the best option for Nepal to pursue in the Least Cost Generation Expansion Plan (LCGEP). It is our impression that the LCGEP did not consider all the possible options for hydropower development in Nepal, and largely ignored the small/medium scale sector. We would appreciate clarification about the scope of the options considered in the LCGEP and the justification for pushing Arun forward.

The LCGEP considered the larger scheme of Arun III rather than the scaled-down version which is now been pursued. In view of the fact that it will now only produce 201MW instead of 402MW, surely the assumptions made in the LCGEP which led to the choice of the Arun scheme need to be reconsidered?

Local private sector intiatives are consistently building schemes for less than $2,000 per kW installed in the small (1-15MW) and medium (1-100MW) hydro ranges, and $1,500 per kW in the mini/micro-hydro range.

* *The engineering and management capability to build a large project like Arun does not exist in the country, which means that the entire scheme will be built by international contractors.*

Previous experience with large hydro projects in Nepal managed in this way (the Marsyangdi and Kulekhani schemes) demonstrates that such dependence on external technologies and expertise does nothing to help local capability grow and mature - in fact, the reverse is often the reality. While there were token provisions made for local capability building in the two projects named above, they never developed into genuine capability building. It is hard to see how Arun will enhance the hydropower capability of Nepal.

Local capability in hydropower has been growing and maturing rapidly over the last 10 years, particularly in the private sector. Local companies are now taking on 50-60MW schemes, which are plenty big enough to meet Nepal's relatively modest energy needs. However, local initiatives require support rather than competition from schemes like Arun.

* *Investing in Arun means putting all Nepal's hydropower eggs in one basket. This makes it a high-risk option and provides no answer to the current load shedding problem.*

Investing in more, smaller schemes would spread the risks of investment and energy provision. If anything goes wrong with Arun, the country will have no alternatives to fall back on. Costly thermal schemes are being recommended as an interim measure until Arun comes on line. The start date for the construction of Arun has already been shifted on and is likely to be further delayed. Shorter-gestation projects will relieve load shedding much sooner.

The Alternative Approach

The alternative approach to hydropower development focuses on a sectoral approach to hydropower generation that recognises the complementarity of private and public sector elements. It also acknowledges the interdependence between, and complementarity of, the large, medium/small and mini/micro sectors in the industry. It is a process-oriented rather than product-oriented approach, which places equal importance on the establishment of greater hydropower capability as on increased power capacity *per se*.

The aim of this approach is to plant Nepal firmly on the path to self-sufficiency in hydropower generation, and to reduce the country's dependence on foreign aid and technical assistance in the long term.

The essential characteristics of this approach are:

* Focusing on schemes that use and enhance the country's existing capability

* Investing in building up local capability, in both the public and private sectors

* Switching to a decentralised model of power production, which ensures a sharing of risks among a number of schemes, and promotes local management and control of projects

* Removing the barriers to private sector investment, and creating an environment which is conducive to growth, maturation and expansion of private industry

* Adopting an evolutionary approach to hydropower development, whereby the industry moves ahead in manageable steps, taking on larger and more ambitious projects as its capability grows and matures.

This approach is realistic. Nepal has the technical capability to take it on, though it will still require support for some years before it is totally self-reliant. Financial and institutional arrangements, however, require serious consideration, as the current mechanisms cannot provide the necessary support. These problems are certainly not insurmountable. The Alliance is currently exploring possible scenarios that would present workable models for supporting the provision and development of hydropower in this way.

We would very much appreciate your response to our concerns and proposals, particularly to the questions we have raised about the practical and economic viability of Arun.

Many thanks for your attention.

Yours sincerely,

Bikash Pandey

Bikash Pandey
Alliance for Energy

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**FACSIMILE**

**Name:** Joseph D Wood
**Company:** Vice President, South Asia, World Bank
**Fax No:** 0101 202 4776050
**Sender:** Alex Bush, IT UK **Date:** 8 March 1994

**Number of copies (including this sheet):** 2 **Charge to IRU**

Dear Mr Wood,

Thank you once again for making time to attend our recent meeting on Arun. This letter is intended to follow up some of the points raised there.

We feel that the meeting was very useful in terms of reaching a better understanding of the view of His Majesty's Government of Nepal. It also gave us an opportunity to repeat our line directly to an offical of HMGN. However, we are not sure that it progressed our understanding of where the Bank stands on these issues and how Bank practice relates to its avowed policies of human resource development and labour intensive economic growth.

Given the debate that has been going on between us, we were a little surprised to learn, for the first time, of the existence within the Bank of a study of the smaller scale alternatives to Arun, which you referred to as 'Plan B'. We were particularly interested in your comment that the cost difference between Plans A and B was only in the order of 3%. At the meeting you emphasised that relevant documents would be made available and we would therefore like to see the study as soon as possible.

In the meeting, you mentioned that the Bank does not feel that the debate has moved forward in certain areas. In particular, you referred to our persistent use of cost per installed kW figures rather than generation cost figures. In order to move the debate on, we need two things. Firstly, a satisfactory answer to the question of the high capital costs of Arun. Secondly, in order to debate generation costs in a constructive fashion, we need to know how these have been calculated in the LCGEP (in order to have any chance of producing comparative figures).

Despite the useful discussions at the meeting, it has to be said that we are still unclear on several points. Firstly, there is the question of the damage which Arun might do to the other options. You seemed to be suggesting that this was not a real concern and we wondered if you might expand on that view a little. In particular, you intimated that the Bank would not be able to offer any finance for the alternatives once Arun was approved.

Secondly, there is the issue of local capability building and the negative impact

there are a significant number of man months of consultancy open to local companies but gave no indication of the nature of these or how the Bank expects these to develop local capabilities.

Finally, there did not seem to be a clear answer to our question of how the proposed IT Consultants study of local capability feeds in to the approval process.

We look forward to hearing from you on the above points.

Yours Sincerely

Alex Bush
Policy Researcher

cc Dr Bhadra, NPC, Nepal
Barry Hefferon, ODA
John Clark, World Bank NGO Section
Aid and Environment UK NGO Group

**The World Bank**
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
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April 15, 1994

Mr. Alex Bush
Policy Researcher
Intermediate Technology Development Group
Myson House, Railway Terrace
Rugby CV21 3HT
UNITED KINGDOM

Dear Mr. Bush:

Mr. Wood has asked me to respond to your letter of March 8, 1994 in relation to the Arun project. He also asked me to say how much he appreciated the opportunity of discussing the Arun project with you and your ITDG colleagues as well as other members of the NGO community based in London.

Turning to the questions raised in your communication, I believe that they could be summarized as follows:

(a) availability of the Bank's study comparing plans "A" and "B";
(b) procedures for the development of the costs of generation projects;
(c) impacts of the Arun project on other hydropower options;
(d) impact of the Arun project on the Nepali hydropower industry; and
(e) follow up on the proposed IT Consultants study on local capability and how it feeds into the approval process.

Concerning (a), although we are not in a position to release the specific documents you request, we do intend to cover all the relevant topics in the Staff Appraisal Report and its Annexes. Once that is available, we would be happy to share it with you.

In the meanwhile, we would be happy to discuss and describe our thinking on any particular issues which may be of interest to you. Please do not hesitate to get in touch with me if you would like to meet.

In relation to point (b), the preparation of cost estimates for the various options studied in the least cost generation expansion program, these have been prepared following normal engineering practice using the latest information available. For example, the Arun cost estimate is based on the results of the bid evaluation for the combined civil works (comprising the access road, the camp facilities, the dam and desanding basins and the headrace tunnel); detailed engineering for the other hydroelectric components (including the construction power supply); preliminary engineering of the transmission line and substation, a feasibility study of the Arun Basin RAP; detailed estimates of the project construction supervision; and technical assistance for training and instituting the private sector and hydrofacility

fund. The cost estimates for the other projects are based on the latest study available (prefeasibility, feasibility or detailed engineering).

Points (c) and (d) have been debated over the past year, and I believe that Dr. Binayak Bhadra of the National Planning Commission explained well in your meeting the Government's multipronged strategy for the development of Nepal's power sector. In particular, given the number of small and medium hydropower projects under implementation (Jhimruk, Khimti Khola) and under preparation (Modi Khola, Kali Gandaki "A") in Nepal in addition to the Arun project, we do not believe that Arun is crowding out other hydropower projects in Nepal. As three of these projects will be implemented by the private sector, we consider the Arun project as part of an integrated strategy involving the private and public sectors to meet Nepal's power generation needs.

Concerning Arun's impact on the Nepal hydropower industry, this is expected to be a favorable one. First, as you know, the major project environmental assessment study was conducted by a Nepali NGO, the King Mahendra Trust for Nature Conservation, which also identified a regional action program (RAP) that has been fully incorporated into the Arun project. This is the first time that the World Bank has entrusted such an important endeavor to a local NGO. Second, 75% of the 5,850 staff months of consultant supervision are expected to be provided by Nepalese staff. This will provide an opportunity to Nepalese engineers and other technical experts to obtain invaluable experience managing a challenging project. Third, it is also anticipated that the project will provide many opportunities for local contractors to work with seasoned international contractors. Fourth, the project includes a component to establish a private sector hydro facility to strengthen local capacity to prepare and implement micro/mini hydro projects.

Finally, in reference to (e), the proposed IT Consultants Study, we feel that it would be very useful in sensitizing Nepal's private sector to the benefits of using the hydro facility to prepare micro- and mini-hydroelectric projects. We would hope to launch this study in conjunction with the next power sector mission to Nepal.

Sincerely yours,

Marie Garcia-Zamor
Chief
Energy and Infrastructure Division
Country Department I
South Asia Region

**INTERMEDIATE TECHNOLOGY**
Development Group

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**FACSIMILE**

**Name:** Joseph Wood, Vice President South Asia
**Company:** The World Bank
**Fax No:** 0101 202 477 6050
**Sender:** Alex Bush, IT UK **Date:** 18 April 1994
**Number of copies (including this sheet):** 2 **Charge to IRU**

Dear Mr Wood,

We have received your reply to our letter of 8th March signed by Marie Garcia-Zamor. Whilst we believe that you have correctly identified the questions in our letter, we have to say that many of these remain unanswered. Taking the points in order:

a) **Availability of plans A and B**

As we stated in our original letter, we were surprised to learn of the existence of plan B after several months of debate on this subject. We are disappointed that the Bank is not prepared to make this study available and thus to make a real contribution to an informed debate on the issue. We also wonder how this squares up with your assertion at the meeting that relevant documents are being made available to interested parties and that all documents are available for inspection within Nepal.

b) **Generation costs**

In our March 8th letter, we responded to your criticism of us for comparing unit capital rather than generation costs in our letters and published materials. We requested that you make clear the basis on which you have calculated generation costs in order that we might produce comparative figures. Unfortunately, your reply simply contains a list of the items making up the overall cost of the project. You have still not clarified the basis on which you transform this figure into a cost for generated power. For example, what are the loan amortization calculations, what allowance is made for operation and maintenance, what treatment is given to firm power, secondary power and peaking power?

c) **Impact of Arun on other hydropower options**

You are correct to say that Dr Bhadra gave us an exposition of the Government's strategy for the power sector. However, he actually focused his presentation on the non-hydro elements of this strategy. The point we have repeatedly made is that the NEA investment plan which is predicated on their agreement with you, will not allow for any significant future work on schemes such as those you have mentioned. One potential scheme has already been turned down on this basis. I am afraid that your letter fails to address this point.

**d) Impact on Nepali hydropower industry**

Your reply also misses our point about the consultancy/contracting element of the project. We were seeking an assurance that the Bank could see the Arun project as an opportunity to proactively implement its policy of human resource development rather than simply making a series of contracts available for competitive tendering. Your letter really does not address this issue.

**e) Study on local capability**

You are aware that we originally proposed this study to shed some light on the existing capability in Nepal and that it was to be carried out as part of a larger study on potential alternative schemes. We felt that both of these were essential to e balanced view of the hydro sector in Nepal before the Arun project came up for approval. Whilst you have encouraged us to develop the local capability component of this work, you have refused to answer our question as to how such a study might be fed into the appraisal and approval process for Arun. I am afraid that your letter does not cast any further light on this subject despite a very specific request in ours of 8th March.

Following our meeting in London, we had thought that you were prepared to engage in an open dialogue on these various points. I am afraid, however, that after a wait of nearly six weeks, your reply does not cast any additional light on the issues. We would still appreciate some clear answers to the following questions:

1. Is a copy of plan B available in the Arun 'library' in Kathmandu?

2. How exactly does the Bank calculate generation costs?

3. Is the Bank prepared to allow NEA to invest in new small and medium hydropower schemes in the next few years?

4. Does the Bank intend to finance any elements of the study proposed in our paper last July? If so, when and how will the results of such work feed into the appraisal/approval process of Arun?

5. We would also appreciate any further information as to when the Arun project is likely to be presented to the board.

We would greatly appreciate your earliest response to these questions.

Yours Sincerely

Alex Bush

cc Barry Hudson, Mike Power ODA
Dr Bhinayak Bhadra, National Planning Commission, Nepal
John Clark, NGO Unit World Bank

**The World Bank**
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May 6, 1994

Mr. Alex Bush
Policy Researcher
Intermediate Technology Development Group
Myson House, Railway Terrace
Rugby CV21 3HT
United Kingdom

Dear Mr. Bush:

Mr. Wood has asked me to reply on his behalf to your letter of April 18. As was stated in my letter to you of April 15, we are also looking forward to working with IT consultants, probably in the late summer, on local capabilities, especially in relation to drawing on the Private Sector Hydro Facility that would be set up under the Arun project.

For your information, I am enclosing a copy of a booklet entitled "Nepal's Arun Hydroelectric Project" prepared by the South Asia Region of the World Bank that answers some of the questions frequently raised in relation to the Arun project. I address below the specific questions reiterated in your letter of April 18.

A. Availability of Plans "A" and "B"

All the source material used for planning the expansion of Nepal's grid is available in Kathmandu, either in the Ministry of Water Resources or the Nepal Electricity Authority. The Arun Information Center is a repository of documentation related to the project that was generated and/or financed by HMG/NEA. Although I now realize that my previous letter may have misled you in this regard, there is no formal Bank study of a Plan "B", so no such study is available in Kathmandu. As mentioned in my April 15 letter to you, we intend to discuss the alternative investment programs we considered in the Staff Appraisal Report (and its Annexes) which we would be happy to share with you once it is available.

B. Generation Costs

In my letter of April 15, I responded to the question in your March 8 facsimile in relation to the high capital cost of Arun by explaining to you how these costs were estimated. In translating these costs into the average costs for generated power from hydroelectric projects, the procedure is straightforward. First, it develops the sequence of project capital costs as well as operations and maintenance costs (estimated annually at 1% of the project's capital costs) over the 50-year lifetime of the project. Salvage value is estimated at 10% of the project's capital cost. Local costs are multiplied by a shadow price of 0.9. Second, the present value of all these costs is calculated based on Nepal's opportunity cost of capital (OCC) of 10%.

Third, the present value of average energy is then calculated based on the OCC. Fourth, the average cost of generated power is estimated by dividing the present value of the project's cost by the present value of average energy. A similar procedure is used to calculate the project's cost of firm and peaking power.

C. Impact of Arun on Other Hydroelectric Options

As I mentioned to you in my previous letter, four other small/medium hydroelectric projects are in the advanced implementation or planning stages in Nepal. Two of these are under implementation (Jhimruk and Khimti Khola) and another two are under preparation (Modi Khola and Kali Gandaki "A"). Three of these schemes will be undertaken by the private sector. The fourth scheme, the Kali Gandaki "A" project, is under preparation by the Nepal Electricity Authority (NEA). This includes finalization of the ongoing detailed engineering study as well as construction of the access road. This demonstrates clearly that the World Bank is prepared to allow NEA to invest in new small and medium hydropower schemes in the next few years. Indeed, I am concerned by your statement that -- "the NEA investment plan which is predicated on their agreement with you [the World Bank], will not allow any significant future work on schemes such as those you have mentioned" -- and I would welcome more specific information in support of that allegation.

D. Impact of Arun on the Nepali Hydropower Industry

In addition to providing major opportunities to "learn by doing", the Arun project will also enable Nepal's contractors and consultants to learn from experienced expatriate contractors and consultants on how to manage a complex project. The project will provide training for the NEA staff. Training will occur in project management, and operations and maintenance of the Arun scheme as well as upgrading NEA's technical, financial, administrative and managerial capabilities.

It also bears noting that the Arun project would support an effective public resource management strategy to ensure that Nepal's overall development program will be contained within manageable limits and that within such a program, priority investments in other sectors (especially rural infrastructure and social sectors) will continue to be adequately protected.

E. Board Presentation of the Arun Project

As Mrs. Hamilton mentioned to you in her letter of September 15, 1993, authorization to appraise the project was provided by the Bank's Loan Committee. During the appraisal mission, ADB, KfW and World Bank staff met with Mr. Frank Almond of ITDG and Mr. Bikash Pandey of the Alliance for Energy. The dialogue was continued in London in February when Bank staff met with you and other ITDG staff. We believe that these meetings, as well as correspondence with you over the last year, have enabled us to fully appreciate and understand ITDG's views in relation to the development of Nepal's power sector. We remain interested in the ITDG study on existing

private sector capacity in Nepal, which could usefully contribute to the Private Sector Hydro Facility we intend to support under the proposed project. It has never been our understanding that such a study would "feed into the appraisal/approval process of Arun".

We are now in the process of finalizing the appraisal report and the review thereof, with the expectation that project negotiations will take place in June and Board presentation later on in the summer.

Sincerely yours,

Marie Garcia-Zamor

Marie Garcia-Zamor
Chief
Energy and Infrastructure Division
Country Department 1
South Asia Region

Enclosure

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**FACSIMILE**

Name: Marie Garcia-Zamor
Company: World Bank SA1E1
Fax No: 0101 202 477 5520
Sender: Alex Bush, IT UK

Date: 13 May 1994

Number of copies (including this sheet): 1 Charge to IRU

Dear Ms Garcie-Zamor

Thank you for your letter of May 6th. You will by now have received from us a paper on financial costings of alternative hydro schemes in Nepal, which apparently crossed your letter in the post. This paper argues that the inclusion of a range of smaller schemes in the LCGEP would have significantly altered its findings. In your letter you provided some further details of the costing methodology applied in the LCGEP which we were obviously not able to build in to our paper. We believe, however, that these will not significantly change the conclusions of that paper.

There are one or two other points that I would like to raise at this time.

1. Availability of Plans 'A' and 'B'

We were disappointed to hear that it is not possible to make available any documentation on Plan 'B'. As you have suggested, it was certainly our expectation, following our meeting with Mr Wood, that some documentation existed. Mr Wood was sufficiently precise about the findings of that study to suggest that the Bank had investigated the issue in some depth.

We are also a little unclear about the issue of access to the Staff Appraisal Report. Your letter states that you will be happy to share this with us once it is 'available'. We are aware that the Bank's new policy on access to information makes such reports widely available *after* the Board has considered them. Given the importance of an informed debate about the alternative investment programmes, could you clarify for us what is meant by 'available' in your letter?

2. Impact of Arun on other Hydroelectric options

I apologise if the wording of our previous letter was unclear. We do realise that the four schemes you have mentioned are progressing. Our letter was simply drawing attention to the investment plan that NEA has published for the years 1993-2007. This makes it clear that there is no planned investment in any other smaller hydro schemes during that period.

80-543 O - 95 - 5

3. Board Presentation of the Arun Project

Thank you for making it clear that the studies we have proposed on private sector capacity will not be part of the appraisal/approval process of Arun. We are naturally disappointed that the Bank does not see this issue as central to the debate. We remain convinced that a programme of development of Nepal's already substantial indigenous capability that is fully integrated with the construction of hydropower schemes offers the best long-term prospect for sustainable and cost-effective development in this sector. As yet, we do not see that the Private Sector Hydro Facility is going to meet this need.

In addition to these points we would obviously be grateful to receive any comments you might have on our recent paper.

Yours Sincerely

Alex Bush

Alex Bush
Policy Researcher

cc John Clark, World Bank NGO Section
Barry Hudson, ODA
Dr Binayak Badra, NPC

# INTERNATIONAL RIVERS NETWORK

Ann O. Hamilton
Director
Country Department I
South Asia Region
The World Bank
1818 H Street
Washington, D.C.
20433

April 5, 1994

By Fax: 522-1775

Dear Ms. Hamilton,

I am writing to request project documents on or related to the Arun III project that are not available in the Public Information Center. I would like to request the following documents:

1) Arun III Initial Executive Project Summary;

2) Arun III Executive Project Summary;

3) Arun III Co-financing Brief;

4) 1989 Staff Appraisal Report for the Arun Road Project;

5) Any feasibility studies or baseline data on Arun III; and

6) A World Bank study of alternatives to Arun III entitled "Plan B".

As you know, the World Bank's new information policy allows for the release of all documents or portions of documents containing factual, technical information on projects in preparation (BP 17.50, point 5).

Thank you for your attention to this matter.

Sincerely,

Lori Udall
Washington Director

cc: D. Joseph Wood, Vice President, South Asia
Susan Levine, U.S. Treasury

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April 8, 1994

Ms. Lori Udall
Washington Director
International Rivers Network
1025 Vermont Ave., N.W.
Suite 300
Washington, D.C. 20005

Dear Ms. Udall:

This is in response to your letter of April 5, requesting documents on or related to Nepal's proposed Arun III Hydroelectric Project, that are not available in the Public Information Center.

Although we are not in a position to release the specific documents you request, we do intend to cover all the relevant topics in the Staff Appraisal Report and its Annexes. Once that is available, we would be happy to share it with you.

In the meanwhile, we would be happy to discuss and describe our thinking on any particular issues which may be of interest to you. Please do not hesitate to get in touch with me if you would like to meet.

Sincerely yours,

Ann O. Hamilton
Director
Country Department 1
South Asia

cc: Mr. D.J. Wood, Vice President, SAS
Ms. Susan Levine, U.S. Treasury

INTERNATIONAL
RIVERS
NETWORK

Ann O. Hamilton
Director, Country Department I
South Asia
The World Bank
1818 H Street
Washington, D.C. 20433

Dear Ms. Hamilton,

I received your response regarding my April 5th information request on the proposed Arun III Hydroelectric Project, including a request for "Plan B" the World Bank study of alternatives to the project, and all factual technical information and annexes.

As you know, my request is covered under the World Bank's new information policy which states that factual technical documents (or portions of documents) about a project in preparation are supposed to be released upon request after the Country Director consults with the borrowing country to identify any confidential portions of those documents (Bank Procedures 17.50, point 5). This provision allows interested parties to obtain detailed technical information before the staff appraisal report is final. The fact that you intend to make the staff appraisal report available is not sufficient to allow for meaningful public input in the project at a critical stage of project planning and design.

Moreover, the basis of the World Bank's information policy is that there is a presumption in favor of disclosure in the absence of a compelling reason not to disclose. After a review of BP 17.50, if you still do not intend to release Plan B, the initial executive project summary and other factual technical information and annexes on Arun III, then please send me a written explanation detailing the compelling policy reason my information request is being denied.

Thank you for your attention to this matter.

Sincerely,

Lori Udall
Washington Director

cc: D. Joseph Wood, Vice President, South Asia
Susan Levine, U.S. Treasury
Congressman Barney Frank

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May 12, 1994

Ms. Lori Udall
Washington Director
International Rivers Network
1025 Vermont Avenue, NW
Washington, DC 20005

Dear Ms. Udall:

This is in response to your letter of April 18, following up on mine to you of April 8, reiterating your request for certain information regarding the proposed Arun III Hydroelectric Project. The situation with respect to the specific documents you request is as follows:

1) The Initial Executive Project Summary (IEPS) and the Final Executive Project Summary (FEPS) were issued in 1987 and 1993, respectively. They are internal documents, and as provided in our disclosure policy, not to be made public.

2) As far as I am aware, there was no Co-financing Brief for this project.

3) The 1989 Staff Appraisal Report for the Arun Road Project (Credit 2029-NEP) is quite out of date, and describes a road with a different alignment from that now proposed, so it is not likely to be of much use to you. However, we are contacting the Government to see if, in their view, there are any sections that involve confidential material. In the meantime, you might be able to obtain the document through the United States Executive Director's Office.

4) The request for "any feasibility studies or baseline data" is not specific enough to permit us to identify what topics you might be interested in. There are many studies, dating from 1987 to the present, and occupying some tens of linear feet of shelf space, which constitute the technical analysis of the project. Most of these are available at NEA's Public Information Center in Kathmandu. We do not have copies of all of them here. However, if you could let me know what specific questions you would like to address, I would be glad to try to identify the relevant documents and seek the Government's concurrence to the release of any which we do have. As background information for the project, I am enclosing the project Environmental Assessment Summary as well as the Initial Project Information Document.

5) - There seems to be some misunderstanding about the existence of "a World Bank study of alternatives... entitled 'Plan B'." In fact, "Plan B" is a generic term which we use to describe many alternative scenarios which we have considered from time to time. Several different versions of "Plan B" have been discussed in internal memoranda written by one staff member to another. The latest version of "Plan B" is being reviewed by the Argonne National Laboratories, and we expect to reflect the outcome of that review in the Staff Appraisal Report.

We remain interested in your views on the proposed project, and, as I said in my previous letter, happy to discuss and describe our thinking on any particular issues which may be of interest to you. This would probably be more useful than review of outdated and often-cumbersome documents you have requested. Please let me know if you would like to meet.

Sincerely yours,

Ann O. Hamilton
Director
Country Department 1
South Asia Region

Enclosures

cc: Ms. Susan Levine
U.S. Treasury

INTERNATIONAL
RIVERS
NETWORK

Ann Hamilton
Director
Country Department I
The World Bank
1818 H Street
Washington, D.C.
20433

May 31, 1994 By Fax: 477-8217

Dear Ms. Hamilton,

I'm writing in response to your letter of May 12, 1994 regarding my information request on the Arun Hydroelectric Project. Concerning my request for the **Initial Executive Project Summary** and **Executive Project Summary**--under the new policy, country directors must release documents or portions of documents containing factual technical information about a project in preparation, after the borrower government has identified any sections which are confidential (BP 17.50, point 5). It would follow that if there are no confidential sections in the document, then the full document should be released. This is relevant for the Initial Executive Project Summary (IEPS), the Executive Project Summary (EPS) and yellow and green cover SARs and all annexes. I, therefore, reiterate my request for the IEPS and EPS. Additionally, I understand that the project is now at the yellow cover stage, so I would like to request a copy of the yellow cover **Staff Appraisal Report and all technical annexes.**

Regarding my request for the **1989 Staff Appraisal Report for the Arun Road Project,** I realize this document is not covered under the new information policy. However, the fact that it is outdated is not, in my view, a compelling policy reason to deny the request. You also suggested that I request the document from the U.S. Executive Director's office. As a matter of procedure, I do not see why NGOs and the public should be forced to obtain documents through Executive Directors. This is not indicated in the information policy. It seems more appropriate for the Bank to establish uniform guidelines for handling information requests which do not fall under the new policy, especially since a majority of the Bank's portfolio does not fall under the new policy and requests handled on a case-by case basis by country directors are likely to result in arbitrary refusals and the unequal application of the presumption in favor of disclosure. Additionally, many NGOs, particularly those from the Bank's borrowing countries, do not find their Executive Directors forthcoming in releasing project information, so this approach would set an unsatisfactory precedent. I continue to expect to receive this SAR.

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Concerning the request for the **feasibility studies** and **baseline data**, I am interested in receiving the following information on the Arun Hydroelectric Project:

o cost/benefit analysis;

o economic analysis;

o topographical surveys and maps of the road and damsite;

o hydrological studies and data, including data on streamflow and floods;

o geological studies of the region and the damsite; and

o the power transmission system.

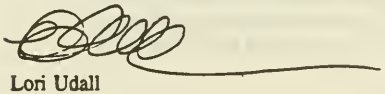
I understand there is a feasibility study which was published in December 1991 by the Morrison Knudsen Corporation, Lahmeyer International, and Tokyo Electric Power Services. I would like to receive a copy of this study.

Finally--regarding the study on alternatives entitled "Plan B"--the request for studies on alternatives is one of the most urgent and critical since NGOs in Nepal and England have developed concrete alternatives to the project which may be far more appropriate for Nepal's long term energy and development needs. It is difficult for NGOs to have a meaningful discussion with the Bank and donor governments on this topic when the Bank continues to secretly covet its own studies on alternatives. If the Bank is to credibly implement and enforce its many policies which require meaningful public consultation and involvement, then it is essential that all information on alternatives be released immediately. If Plan B does not exist, then please release all information and studies regarding the Bank's position on alternatives to the Arun Hydroelectric project as currently designed.

In my view, failure to release information containing the Bank's view on alternatives to the project constitutes a violation of the new information policy since this information is in the category of factual, technical information. This information should also have been fully disclosed to the public during the environmental impact assessment process in order to allow for meaningful public consultations. Releasing this information in the final (buff cover) staff appraisal report is far too late for public input and scrutiny of the project.

Thank you for your attention to these urgent matters.

Sincerely,



Lori Udall
Washington Director

**The World Bank**
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June 9, 1994

Ms. Lori Udall
Washington Director
International Rivers Network
1025 Vermont Ave., N.W.
Suite 300
Washington, D.C. 20005

Dear Ms. Udall:

I am writing further to our earlier correspondence, in which you have indicated your interest in the Arun III Hydroelectric Project. Among other things, you requested information on the analysis of various power expansion scenarios for Nepal, including what has come to be known as "Plan B."

As you know, the various concerns regarding the Arun project -- including macroeconomic and institutional risks, uncertainty regarding the load forecast, and the possibility that Arun would so dominate the future power investment program in Nepal that other smaller projects in which Nepali engineers and contractors could play a more prominent role would be crowded out -- led us to consider alternative generation expansion plans, including some deferring the commissioning of Arun to a later date and introducing first a series of smaller investments in the 30-80 MW range. Although we received many requests for documents describing this version of "Plan B," consistent with the Bank's information disclosure policy, we declined to release the internal assessments and argumentation that were part of our internal decision-making process. We did, however, offer to provide a technical report providing in detail the assumptions and the analysis underlying our view of the alternative investment programs, as soon as it was available.

The draft final technical report, prepared by the Argonne National Laboratories, was received by the Bank last week. Although it is still subject to revision, I am please to enclose a copy of that report. Its conclusions are in line with our earlier evaluation, but the Argonne report is more transparent in the specification of the assumptions and contains a richer set of sensitivity analyses. Also enclosed is a staff paper, "Justification for Selection of Arun Hydroelectric Project by Nepal," explaining why we decided to support the Arun project, and to do so at this time, which draws upon the technical work done by Argonne. The purpose of this advance distribution is to provide maximum transparency regarding the technical basis for the conclusion that the Arun project does indeed form part of the Least Cost Power Generation Expansion Plan for Nepal.

Also enclosed are a copy of the Project Information Document and a list, prepared by the National Electricity Authority of Nepal, of the large number of reports related to the project and available in Kathmandu. Many, but not all, of them are also available in this Department, in Washington, and you are welcome to come in and look at them.

The feasibility study to which you refer in your letter of May 31, by Morrison Knudsen, Lahmeyer International and Tokyo Electric Power Services, is available here, in three volumes, and you are welcome to look at it. However, it refers to the Upper Arun Project, not to the Arun III Project that we are proposing to finance. In any event, I am enclosing a copy of the Executive Summary of that study. I also enclose a copy of the 1989 Staff Appraisal Report for the Arun III Access Road Project. Finally, although we no longer prepare "cofinancing briefs," I enclose the description of the Arun project from our publication on Projects with Potential for Cofinancing.

Given the extensive public interest in the Arun project, indicated by correspondence going back at least four years, we are taking the somewhat unusual step of distributing materials and holding seminars for interested NGOs. I hope you realize that we are committed to broad disclosure under the Bank's new policy, since we recognize that the sharing of relevant information can be beneficial to the Bank and its borrowers, as well as to the interested public. It is for this reason that we have had a large number of consultations with interested parties outside the Bank. These have included meetings since 1989 with the Woodlands Mountain Institute (WMI), which is encouraging the environmentally sustainable development of the Makalu Barun National Park and Conservation Area in the upper reaches of the Arun valley; frequent meetings with Nepali NGOs, including the Alliance for Energy and the King Mahendra Trust for Nature Conservation (which conducted the Arun Basin-wide Assessment), by Bank missions and during the January 1994 visit to Nepal of our Vice President for Environmentally Sustainable Development; meetings in Washington and London with the Intermediate Technology Development Group; and special consultations in Switzerland and the U.K. with interested and knowledgable NGOs, under the leadership of the member of the Nepal Planning Commission responsible for power and infrastructure investments and our Regional Vice President. We have also prepared a booklet on the most frequently asked questions about the project, and we supervised the preparation, by the Anthropology Department of UCLA, of a video entitled "Sustainable Development in the Arun Basin." Of course, we have also met frequently with the office of the U.S. and other Executive Directors, and with the staff of many embassies and their aid agencies in Kathmandu, to respond to questions raised indirectly by various NGOs, and we have engaged in extensive correspondence on the project with NGOs and individuals in many countries.

You are invited to attend a preliminary briefing on the enclosed technical materials which has been arranged for interested NGOs on Friday, June 10, at 4:30 p.m. at the World Bank (Room E-1136). This briefing is being provided to clarify any definitional and methodological questions on the Argonne report or the staff paper. We are also planning to hold follow-on discussions with interested NGOs on June 16 and a more structured seminar on June 28 (when ITDG representatives are available); we will be back in touch with you to confirm the time and place.

Please do not hesitate to let me know if we can be of any further assistance.

Sincerely yours,

Ann O. Hamilton
Director
Country Department 1
South Asia Region

Attachments
cc: Mr. Alex Bush, ITDG
Mr. Bikash Pandey, Alliance for Energy

INTERNATIONAL
RIVERS
NETWORK

D. Joseph Wood
Vice-President
South Asia Regional Office
The World Bank
1818 H Street
Washington, D.C.
20433

14 June 1994 By Fax:477-6050

Dear Mr. Wood,

We are writing to you concerning the upcoming meetings on Arun III scheduled for June 16th and 28th in Washington. We are very concerned that these meetings are being planned primarily as a public relations exercise rather then a serious effort by the Bank to consider project alternatives. The alternatives which are being proposed by Nepalese NGOs, Intermediate Technology (IT) and others deserve serious consideration. In a real sense, the alternatives go to the heart of what "sustainable development" means in practice, including key questions about who participates and who benefits.

We understand that loan negotiations between the Bank and the Nepalese Government on the project are already underway and may be finished or nearly completed before the meeting on June 28th, when Nepalese NGOs and IT will be in Washington to meet with the Bank. We also understand that despite the many questions and concerns raised by NGOs regarding the economic soundness, and unaddressed environmental and social impacts of the project, Bank management is still planning to send the project to the Board for approval on July 26, 1994. In our view, this calls into question the credibility and the purpose of the meetings being planned.

Therefore, before we participate in another meeting on Arun III with the Bank, we request a written assurance that:

1) ongoing negotiations will not result in the project, as currently designed, becoming a fait accompli before the meeting, and

2) before the project is sent to the Board, Bank management will fully respond to all questions raised on a) alternative analyses

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and economic, environmental and social issues, and b) the Bank will publicly release all factual technical documentation on the project, including the green cover staff appraisal report and technical annexes.

Additionally, we will not attend a meeting on Arun III without Nepalese NGOs present because we do not feel it is appropriate or necessary to have a separate meeting between Washington based NGOs and the Bank on the project. Therefore, we suggest that the two meetings on June 16th and 28th be combined.

Thank you for your attention to these matters.

Sincerely,

Lori Udall
Washington Director
International Rivers Network

on behalf of:

Chad Dobson
Secretary
Bank Information Center

Jim Barnes
Director
International Program
Friends of the Earth

Larry Williams
Director
International Program
Sierra Club

cc: Jeffrey R. Shafer, U.S. Treasury

# THE BANK INFORMATION CENTER

A Clearinghouse For Environmental Information On MDB Funded Projects

March 2, 1994

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Mr. D. Joseph Wood
Vice President, South Asia Regional Office
The World Bank
Room E 10-071
1818 H Street, NW
Washington, DC 20433

Dear Mr. Wood,

As you know, we are planning to meet with Dr. Phadra from the Nepal Planning Commission this Friday at 10:00 am. We're hoping to have as useful a discussion as possible about the technical issues related to Arun III. In order to do this, I feel it would be very useful to have all the materials related to the study of alternatives to this large dam.

It is our understanding that at a recent meeting with ODA and NGOs in the U.K. you stated that the World Bank had done a study of alternatives called "Plan B" which showed that the Arun III was 3% less expensive than an alternative approach for the generation of power. In order to have an intelligent discussion with Dr. Phadra, we think it's essential that we have access to the Plan B files as well as the initial Executive Project Summary and any other technical pre-appraisal documents related to this project. We would appreciate your help in making this material available.

Thank you for your attention to this issue.

Sincerely,

Chad Dobson
Secretary

cc: Susan Levine, US Treasury
Nancy Katz, World Bank
Priscilla Coburn, US Treasury
Ismail Serageldin, World Bank
John Clark, World Bank

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# THE BANK INFORMATION CENTER

A Clearinghouse For Environmental Information On MDB Funded Projects

March 24, 1994

Mr. D. Joseph Wood
Vice President, South Asia Regional Office
The World Bank
Room E 10-071
1818 H Street, NW
Washington, DC 20433

Dear Mr. Wood,

I am writing as a follow-up to my March 2 letter to you requesting documents pertaining to Arun III.

As you know, we met with Dr. Phadra but, unfortunately, the Bank did not provide the Plan B material to us prior to that meeting. We were told informally that the reason it was not made available to us was because it had not been made available to the government of Nepal. In discussion with Dr. Phadra, he said that although he may not have the entire study, he may have portions, and that he had no objection to it being made available to NGOs for discussion.

We've received the summary of the environmental assessment from the Bank but again request that the Plan B material as well as the initial Executive Project Summary and other related technical pre-appraisal documents be made accessible to us. We feel that the Plan B materials should be made available since, according to our sources, at a recent meeting in the U.K. you stated Plan B showed that Arun III was the least cost option for Nepal.

We appreciate your attention to these issues.

Sincerely,

Original signed by Chad
Chad Dobson
Secretary

cc: Susan Levine, US Treasury
Nancy Katz, World Bank
Ismail Serageldin, World Bank
John Clark, World Bank

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April 14, 1994

Mr. Chad Dobson
Secretary
The Bank Information Center
2025 I Street NW
Suite 522
Washington, DC 20006

Dear Mr. Dobson:

Mr. Wood has asked me to reply to your letters of March 2 and March 24, requesting documentation on the Arun project in addition to the Environmental Summary which you have already received from us.

Although we are not in a position to release the specific documents you request, we do intend to cover all the relevant topics in the Staff Appraisal Report and its Annexes. Once that is available, we would be happy to share it with you.

In the meanwhile, we would be happy to discuss and describe our thinking on any particular issues which may be of interest to you. Please do not hesitate to get in touch with me if you would like to meet.

Sincerely yours,

Marie Gracia Zamor
Chief
Energy and Infrastructure Division
Country Department I
South Asia Region

The World Bank
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

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May 19, 1994

Mr. Chad Dobson
Secretary
The Bank Information Center
2025 I Street, N.W., Suite 522
Washington, D.C., 20006

Dear Mr. Dobson:

Re: NEPAL: Arun Hydroelectric Project

I am responding to your facsimile of April 15, 1994. The situation with respect to the specific documents you request is as follows:

(a) The Initial Executive Summary IEPS is an internal document, and as provided in our disclosure policy, not to be made public. However, a Public Information Document has been issued for this project and is available through the Bank's Public Information Center.

(b) There seems to be some misunderstanding about the existence of "Plan B". Over time, we have considered many alternative generation expansion scenarios. "Plan B" is, in fact, a generic term which we use to describe the particular alternative scenario. Several different versions of "Plan B" have been discussed in internal memoranda written by one staff member to another. Several alternatives scenarios or "Plans" are being reviewed by the Argonne National Laboratories, and we expect to reflect the outcome of that review in the Staff Appraisal Report.

(c) Your request for other "factual technical information" is not specific enough to permit identifying what topics you might be interested in. There are many studies, dating from 1987 to the present, and occupying some tens of linear feet of shelf space, and which constitute the technical analysis of the project to date. Most of these are available at NEA's Public Information Center in Kathmandu. We do not have copies of all of them here. However, if you could let me know what specific questions you would like to address, I would be glad to try to identify the relevant documents.

# THE BANK INFORMATION CENTER

A Clearinghouse For Environmental Information On MDB Funded Projects

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*Indonesia*

April 15, 1994

Maria Garcia-Zamor
Chief, Energy and Infrastructure Division
Country Department I, South Asia Region
The World Bank
1818 H Street, NW
Washington, DC 20433

Dear Ms. Zamor,

I received your response regarding my March 2 information request on the proposed Arun III Hydroelectric project, including the request for "Plan B", the World Bank study of alternatives to the project.

My request is covered under the World Bank's new information policy which states that factual technical documents (or portions of documents) about a project in preparation are supposed to be released upon request after the Bank consults with the borrowing country to identify any confidential portions of those documents (Bank Procedures 17.50, point 5).

Moreover, the basis of the World bank's information policy is that there is a presumption in favor of disclosure in the absence of a compelling reason not to disclose. After a review of BP 17.50, if you still do not intend to release Plan B, the initial executive project summary and other factual technical information on Arun III, then please send me a written explanation detailing the compelling policy reason my information request is being denied.

Sincerely,

Chad Dobson
Secretary

cc: D. Joseph Wood
Undersecretary Lawrence Summers
Senator Claiborne Pell
Senator Patrick Leahy
Congressman Barney Frank
Congressman David Obey

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We remain interested in your views on the proposed project and would be happy to discuss our thinking on any particular issue which may be of interest to you.

Sincerely yours,

Nancy Shea for

Marie Garcia-Zamor
Chief
Energy & Infrastructure
Country Department 1
South Asia Region

DRAFT VERSION APPENDIX IV

# PROPOSED RULES OF PROCEDURE FOR THE WORLD BANK'S INSPECTION PANEL

June 17, 1994

Written by:
Lori Udall, International Rivers Network
David Hunter, Center for International Environmental Law

The World Bank Inspection Panel was created to give parties who are adversely affected by Bank-financed projects a forum in which to hold the Bank accountable to its policies and procedures. The three-member Panel will receive and investigate claims filed by citizens, nongovernmental organizations and others who claim damages caused by the Bank's failure to comply with its own policies, procedures and loan agreements. The following are proposed rules of procedure for the Panel. Any comments on these proposed rules should be provided to Lori Udall at the International Rivers Network or David Hunter at the Center for International Environmental Law.

**I. Who can file a claim**

The following parties can file a claim before the Panel:

A. any group, nongovernmental organization, association or society representing themselves or an affected party in the country where the project in question is located;

B. a representative group outside the borrower country if:

1) the claimant shows there is no appropriate local representation, and

2) the Executive Directors agree at the time they consider the claim; and

C. A single Executive Director or the Board of Executive Directors.

**II. Claims That the Panel Will Not Accept**

The Panel will not accept the following claims:

A. Claims which do not involve an act or omission on the part of the Bank;

B. Claims dealing with procurement issues, such as agreements between the World Bank and commercial contractors;

C. Claims from a single individual;

D. Claims on projects filed after the closing date of the loan or credit for that project or after 95% of the loan or credit has been disbursed for that project, *unless the claimant gives evidence that they are directly and adversely affected by the Bank's failure to enforce loan conditions that are still in effect after project completion.*

E. Claims relating to matters previously considered by the Panel, unless justified by new evidence or changed circumstances not known at the time of the original complaint.

**III. Filing a Claim**

A. In order to file a claim, a party should demonstrate all of the following elements:

1) The affected party's rights or interests have been or are likely to be directly affected by an act or omission of the World Bank as a result of a failure of the Bank to follow its policies and procedures or loan agreements:

2) The failure to enforce policies, procedures or loan agreements was in the course of the design, appraisal, or implementation of a World Bank financed project, and

3) The failure has had or threatens to have a material adverse effect on the affected party.

4) The claimant has brought the issue to the attention of Bank Management, and the Bank Management's response was inadequate.

B. All claims must be submitted in writing to the Panel. Claims may be submitted in the local language or any of the United Nations official languages.

C. Claimants who need advice on submitting a claim should contact the Panel, which will provide information on how to file a claim and will meet with potential claimants to discuss how to file a claim.

D. Claimants should prepare a memorandum containing the following information:

1) A description of the project, stating all the relevant facts including the harm suffered by or threatened to the affected party;

2) An explanation of how World Bank policies, procedures or loan agreements were violated, including citations to specific sections of the relevant policies;

3) A description of how the act or omission on the part of the Bank lead to a violation of the specific provision;

4) A description of how the claiming party was adversely affected or is likely to be

adversely affected by the Bank's act or omission and what rights or interests of the claimant were affected;

5) A description of steps taken by the claimant to resolve the violations through correspondence and/or meetings with World Bank staff, including an account of how the Bank responded to the claimant and what steps the Bank did or did not take to mitigate the situation;

6) In claims relating to matters previously submitted to the Panel, a statement specifying what new evidence or changed circumstances justifies the Panel revisiting the issue.

E. To the extent possible, all correspondence with World Bank staff and officials should be organized and attached to the memorandum.

F. To the extent possible, minutes of meetings with World Bank operations staff or task managers should be written down and included with the complaints.

G. If the claimant cannot submit all the information above, the claimant should submit as much information as possible about the claim and describe the efforts the claimant has taken to try to obtain additional information, including attempts to correspond or meet with Bank management.

**IV. Accepting a Claim**

A. Within 42 days of receiving a claim, the Panel shall make a recommendation to the Board of Executive Directors to investigate the claim. After a claim is received and sent to Bank management, Bank management has 21 days to respond to the Panel with evidence that it has complied or intends to comply with the Bank's relevant policies or procedures. After the Panel receives management's response, the Panel has a total of 21 days to recommend to the Executive Directors whether the matter should be investigated. All efforts will be made to handle the claims expeditiously and efficiently in as short a time period as possible.

B. The Panel will comply with the following procedures for accepting claims:

1) Within two weeks of receiving a claim, the Panel shall send a written acknowledgement to the claimant, expressing

(a) if the Panel needs more information or documentation regarding the claim, and if so, the Panel will specify at that time what additional information is required.

(b) The Panel may refuse to consider a claim until all necessary information and documentation is submitted, unless the Panel finds that such information or documentation is not readily obtainable by the claimant and that it already has sufficient information or documentation to evaluate the claim.

2) Upon receipt of the claim, the Panel will immediately notify the Office of the President and the Board of Executive Directors of the claim.

(a) Copies of the claim and supporting documents will be sent to the relevant task

manager, country director, and regional vice-president in the Bank.

(b) The Panel will request Bank management to respond to the claim with supporting documentation in 21 days or less.

3) Upon receiving management response to the claim, the Panel may send management's response or portions thereof to the claimant for comment before the Panel makes a determination to investigate the claim.

4) The Panel shall submit its recommendation to the Board no later than 21 days after receiving management's response. If management did not respond in the 21-day period provided, the Panel can make its recommendation to the board at any time but no later than 42 days after receiving the claim.

5) When deciding whether to investigate a claim, the Panel will have complete access to all relevant Bank files and any Bank staff that are directly or indirectly involved in the project. This includes access to relevant files other then those provided by Bank management in their response to the claim. The Panel shall consult with the Executive Director representing the Borrowing (or guaranteeing) country on the subject matter of the claim prior to submitting its recommendation to the Board.

6) During the six week period when the Panel is determining whether to investigate the claim, the Panel will accept outside public opinions regarding the claim.

(a) Opinions should be a maximum of ten pages and information should either directly support or oppose the subject of the claim.

7) The Panel will issue a public notice that a claim has been received.

(a) The notice will include the name of the project, the country where the project is located, the name of the claimant and a brief description of the claim.

(b) The notice will be provided in the local language in a local newspaper or some other similar method that ensures the public in the affected area has been informed of the claim.

8) If the claimant requests anonymity, the Panel will not release information about the claim publicly. If the Panel has reason to believe that the claimant could be endangered for filing the claim, the Panel can choose to keep the name of the claimant absolutely confidential.

9) If upon receipt of a claim or anytime during the investigation, the Panel determines that affected parties may be adversely harmed during the course of the investigation, the Panel may recommend to the Board and to Bank Management a temporary suspension of the project. Such a recommendation shall be submitted to the claimant and made public at the same time it is submitted to the Board and Bank Management.

10) At the same time the Panel provides to the Board its recommendation regarding whether to investigate a claim, the Panel will also notify the claimant and the public of its recommendation. Every recommendation must be accompanied by a clear explanation setting

forth the reasons for the recommendation.

11) The Board's decision regarding whether the Panel can investigate a claim will be sent to the claimant and made public within 24 hours of the decision, along with the name of the Panel member who will take the lead in the investigation.

**V. Investigating a Claim**

A. The Panel may use a variety of methods to investigate a claim, including but not limited to:

1) meetings with claimants, affected people, local and international NGOs, World Bank staff, borrower country government officials, and project authorities;

2) holding public hearings in the project area;

3) taking site visits to project sites;

4) requesting written or oral submissions on specific issues by the claimant, independent experts, affected people, non-government organizations, government officials or World Bank staff;

5) hiring independent consultants to research specific issues relating to a claim;

6) researching World Bank project files; and

7) any other reasonable method normally used for conducting such an investigation.

B. The schedule, including the length of time, for investigating a claim shall be determined by the Panel members and shall be made public as soon as possible;

C. The Panel shall seek consent of the Borrowing Country prior to conducting any inspections in its territory.

1) Any failure to provide such consent shall be made immediately know to the Bank Management, the Board, the claimant, and the public.

2) To the extent that refusal of consent limits the Panel's ability to obtain all of the necessary facts to evaluate the claim, the Panel shall assume any such facts in support of the claimant.

D. During the course of the investigation, the claimant and any member of the public shall have the right to provide the Panel with supplemental information that they believe is relevant to evaluating the claim.

E. The Panel shall make available to the claimant as soon as possible any draft findings of fact

and give the claimant an opportunity to respond to negative findings before the final report is sent to the Bank Management and President.

**VI. Panel Reports**

A. The Panel will submit its report to the Board of Executive Directors and the President. Within six weeks of receiving the Panel's report, Bank management will submit its response to the report to the Board and the Panel.

1) After the Board considers the report and the management response, the report is released to the claimant.

2) The claimant will also be informed of what action the Bank has taken, if any.

B. The public and the claimant will be notified when the Panel sends its report to the Board of Executive Directors, and the Panel member responsible for writing the report will be available to the claimant and the public to discuss the findings and recommendations of the report.

C. The Panel will include in its recommendations to Executive Directors a recommendation regarding the urgency of the report in order to ensure its timely consideration by the Executive Directors.

D. Panel reports shall include the following elements:

1) findings of fact and recommendations submitted to the Board of Executive Directors on how the Bank should address the problems in the complaint, including any recommendations on whether the project should be suspended, modified or canceled;

2) an explanation of why the Panel is making the recommendations it is making;

3) any response from Bank management regarding the recommendation to investigate the claim or the recommendations made at the end of the investigation;

4) in the absence of unanimous consensus in the Panel, any majority and minority opinions;

5) a detailed description of the steps taken to investigate the claim; and

6) a separable appendix including a copy of the claim and copies of all comments received from the public.

E. No later than two weeks after the Board decision, the Panel shall release the report to the public.

1) All reports shall be made available at the Public Information Center, the Tokyo, Paris and London offices of the Bank, the field office in the Borrowing country where the claim originated, and a library at the Panel's secretariat.

2) All reports will be available at cost to the public.

**VII. Annual Reports**

A. Every year the Panel shall publish an annual report summarizing

1) the claims and their disposition,

2) identifying any trends in the number, content or scope of the complaints,

3) evaluating the role of the Panel,

4) and making any recommendations for improving the Panel's operations.

**VIII. Nominating Panel Members**

A. The Panel shall be made up of three members of different nationalities drawn from Bank member countries.

B. The President, after consultation with the Executive Directors, shall nominate the members of the Panel to be appointed by the Executive Directors.

C. At least three weeks before the Executive Directors vote on any Panel member, the name of the nominee shall be made publicly available.

**IX. Amendments to the Resolution or Rules**

A. Any Executive Director or Panel Member may submit to the Board of Executive Directors a proposal for amendment to the Resolutions creating this Panel (Resolution No. 93-10 and Resolution No. IDA 93-6). At least three weeks before the Board votes on any such proposal, the proposal shall be made available to the public.

B. These rules may be amended by majority vote of the Panel, provided that the proposed amendments to these procedures have been made available to the Executive Directors, Bank Management and the public at least three weeks prior to the Panel vote.

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TESTIMONY OF DURWOOD ZAELKE, PRESIDENT,
AND DAVID HUNTER, SENIOR STAFF ATTORNEY,
CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW

# THE WORLD BANK INSPECTION PANEL AND THE NEED TO CREATE AN INTERNATIONAL FRAMEWORK AGREEMENT FOR ADMINISTRATIVE PROCEDURES

Before the Subcommittee on International Development,
Finance, Trade and Monetary Policy

June 21, 1994

TESTIMONY OF DURWOOD ZAELKE, PRESIDENT,
AND DAVID HUNTER, SENIOR STAFF ATTORNEY,
CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW*

# THE WORLD BANK INSPECTION PANEL AND THE NEED TO CREATE AN INTERNATIONAL FRAMEWORK AGREEMENT FOR ADMINISTRATIVE PROCEDURES

June 21, 1994

## I. Introduction

During the past few years, in large part due to the efforts of this Subcommittee, the World Bank has had to improve its policies for access to information, public participation and legal accountability. These are important steps toward democratizing the World Bank and improving its environmental and human rights record. They are also important steps toward reforming and democratizing international institutions generally. Our testimony places these recent World Bank reforms in the broader context of the need for uniform, open and democratic procedures for all international institutions.

In short, we are asking the U.S. government and the Congress not only to continue their efforts to reform World Bank procedures, but at the same time apply these lessons now to develop uniform procedures for existing and forthcoming international institutions. We believe the U.S. government should take the lead in calling for a Framework Agreement on Administrative Procedures for International Organizations, which would provide minimum standards for international institutions' administrative procedures and would provide those outside the institutions with benchmarks to evaluate the performance of international institutions.

Such a framework agreement is important both because we are creating new international organizations, and because we are giving them new powers, - sometimes sweeping powers. The Bank's Inspection Panel is but one of the new institutions that would have benefitted from the existence of a framework agreement on international administrative procedures, had one existed. Others include the new and potentially anti-democratic World Trade Organization (should it finally be established), and the new NAFTA institutions, including the new North American Development Bank, and the restructured Global Environmental Facility. All of these institutions are in the process of creating administrative rules in what is essentially a vacuum, lacking the clear benchmarks a framework agreement would provide.

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*We would like to thank Lee Ondrejack and Amy Spence, CIEL summer associates, for their assistance with the testimony and draft panel procedures.

The need for a framework agreement is even more apparent when we consider the new powers being given some international institutions, particularly in the area of international trade, including the power to set international standards, which often may replace democratically-set U.S. standards. The GATT and the WTO head the list with NAFTA a close second. As we give these new institutions the power to challenge democratically established U.S. standards - which we are indeed doing - we must at least ensure that they are transparent, open, and accountable. Our administrative procedures must keep pace with the powers we are giving our international institutions.

Although the precise nature of a Framework Agreement on International Administrative Procedures will require serious negotiation, some broad outlines can be suggested, based on United States policies and international pronouncements promoting participatory democracy and good governance. Such a framework agreement should promote, among other principles: (1) independent, objective and non-arbitrary decisionmaking based on all relevant facts; (2) transparency with clear rights of access to information (with circumscribed exceptions); (3) clear rights of citizen participation, including notice and comment rulemaking; and (4) accountability to the public and the rule of law, through mechanisms such as the Bank's Inspection Panel.

Put in this context, the importance of the World Bank's Inspection Panel and information policies, and the U.S. governments' interest in monitoring them closely, should be clear. Substantively, the Inspection Panel provides a critically important model for ensuring the public accountability of all international institutions. The process the Panel follows to promulgate its own procedures also provides an opportunity to set an example of how to follow transparent, democratic, and accountable procedures.

This testimony focuses largely on the World Bank's Inspection Panel. The Panel is important in its own right as a primary mechanism for increasing the accountability of the World Bank and as a model for similar panels at the other multilateral development banks. This, alone, should be sufficient to ensure close scrutiny by the U.S. Treasury. But the panel also provides an important opportunity for the U.S. to advance the fundamental precepts of participatory democracy and good governance for all international organizations.

Success here could be critical for launching the broader effort necessary for the Framework Agreement on International Administrative Procedures. At the same time that we struggle to fashion the operating procedures for the Inspection Panel (and soon for the panels at the Asian Development Bank and the Inter-American Development Bank), we also should stop and think how much easier the task would be today if we had created international procedural benchmarks yesterday.

## II. World Bank Inspection Panel

For the past decade, the World Bank has been the target of increasing criticism directed at systematic and pervasive problems in its loan portfolio. Of special concern is the

lackluster environmental and social record of Bank projects and programs. Indeed, the Bank has financed a seemingly endless line of poorly designed, environmentally damaging development projects, including the Sardar Sarovar dam in western India, the Yacyreta water project on the Argentine-Brazil border, the Pak Mun dam in Thailand, the Polonoroeste project in the Brazilian Amazon, the Transmigration project and Kedung Ombo dam in Indonesia, and several forestry projects in Cote d'Ivoire and Gabon. Many of these projects have provided the facts for previous NGO testimony before this Subcommittee and rest assured that similarly massive and potentially damaging projects continue today (for example, the Arun III hydroelectric projects in Nepal).

Numerous case studies by NGOs and other researchers have documented the lack of openness and accountability in the Bank's decision-making process that continues to undermine the institution's ability to promote environmentally responsible and socially progressive projects. Various CIEL attorneys have come to refer to the Bank as a "lawless" institution, because we found it impossible to identify even one set of rules or laws that the Bank admits it is bound to follow. Even the Bank's own policies and procedures are repeatedly sacrificed for political expediency whenever necessary. For example, it appears (although without an investigation from the Inspection Panel it is difficult to know for certain) that the Bank failed completely to follow its environmental impact assessment policies when preparing and approving its recent loan to Mexico.

The great vision and hope behind the Inspection Panel, of course, is that it will provide a mechanism to hold the Bank accountable at least to its own policies and procedures. In fact, if implemented correctly the Inspection Panel may be the first mechanism ever to hold an international institution directly accountable to citizens. From an academic point of view the terrifically exciting aspect of the Panel is that it provides citizens and citizens groups with a process to complain directly to the Bank, without having to go through state governments as unnecessary and often unworkable intermediaries. This is not only an important effort to democratize the World Bank and improve its governance and accountability, but it is also a great exercise in recreating and democratizing international law generally.[1]

This positive, almost polly-annish, view of the Inspection Panel is premised on the Panel being implemented through open, transparent and independent procedures. The resolution sets out a basic framework that still leaves significant questions about the independence, and ultimately the credibility, of the Panel. These criticisms have been well documented in the testimony of International Rivers Network, which CIEL joins, and elsewhere.[2]

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[1]*See* Philip Alloit, *International Law and International Revolution: Reconceiving the World* (1985).

[2]*See e.g.* DAVID HUNTER & LORI UDALL, CTR. FOR INT'L ENVTL. LAW, ISSUE BRIEF NO. 1, THE WORLD BANK'S NEW INSPECTION PANEL: WILL IT INCREASE THE BANK'S ACCOUNTABILITY? 1 (1994).

A. Problems With the Inspection Panel Resolution

1. **The Inspection Panel may not be independent.** The resolution creates the potential for an unhealthy reliance on the Bank. Panel members are nominated by the Bank President and approved by the Executive Directors. Panel members are subject to the requirements of the Bank's Articles of Agreement that demand exclusive loyalty to the Bank. The Bank has even assigned the panel's executive secretary, and the Panel's budget though required to be "sufficient" is not clearly protected from Bank Management control. Much of the day-to-day operations of the Panel could still be effectively controlled by Bank Management – everything from the President's power to recommend salaries for the Panel members to Bank personnel potentially determining whether or not to reimburse panel members for travel expenses. Perhaps more importantly, the Executive Directors must decide on every claim before the Panel is allowed to begin its investigations; this level of micromanagement is particularly ironic given the hands-off nature of the Executive Directors relationship to Bank Management.

2. **The resolution unnecessarily tries to restrict access to the Panel.** Although the resolution does allow any group of more than one citizen directly affected by a Bank operation to file a complaint, the resolution goes out of its way to unnecessarily restrict the types of complaints that can be brought to the Panel. For example, requests are not allowed if filed after the Closing Date of the loan or after substantial disbursement, even if there are legal obligations continuing in the loan agreements. Elsewhere, the resolution limits the Panel's ability to investigate a claim until "the subject matter of the request has been dealt with by the Management of the Bank...." This provision, if not adequately circumscribed by the Panel's administrative procedures, could allow the Bank to delay any claim from being investigated by simply telling the Panel that it is or soon will be dealing with the claim. Although the complainants are, appropriately, asked to seek Management's response before filing a complaint, the Panel must be careful not to allow any slow Management response to interfere with investigating an otherwise valid complaint. The resolution also denies complainants the opportunity to choose their own counsel or representation, by allowing non-local representation only in "exceptional circumstances", a term which must be narrowly defined.

3. **The resolution tries to shield the Panel and the Bank from public scrutiny.** In many instances in the resolution, the amount and timing of information that can be provided to the public (or amazingly, even the complainant) is severely curtailed. This threatens to undermine the Panel's credibility even before it gets started. The resolution only provides for the public release of a complaint and the recommendation of the Panel after the Board of Executive Directors have made its decision regarding whether to investigate. Similarly,

the final report is released to the claimant and the public two weeks after decision of the Board. Thus the public is excluded from the process at the very stage where additional comment and information concerning Panel findings could be most important to the Directors' decisions.

**4. The Panel's actual authority to investigate may be unreasonably limited.** Even the Inspection Panel's investigative powers may be curtailed by the Resolution. If the Borrowing Country does not give its consent, the Panel will not be allowed to conduct on-site investigations, hold public hearings, or take other steps in the territory of the Borrowing Country where the claim originated. The Bank needs to ensure through its loan agreements and otherwise that Borrowing Countries cooperate fully with the Panel. Ultimately, the Panel's power is severely limited because nothing in the Resolution commits the Bank to rectifying problems uncovered by Panel investigations. The Bank President is only required to respond to Panel findings by informing the Executive Directors of actions that she or he intends to take, if any.

**5. The Bank's operational policies and procedures are the basis for claims before the Panel, and any effort to limit them will limit the Panel's power to do its job.** Current efforts within the Bank to "streamline" operational policies and procedures must be monitored carefully by the Panel and the U.S. Treasury to ensure that the standards for judging claims are not weakened or lost. The Bank must not avoid accountability or circumvent the Resolution by reducing operational policies and procedures to short two or three page summaries, and shifting the standards to Guidelines and Best Practices, which by the terms of the Resolution may not form the basis for a claim. Moreover, the Bank's review of the operational policies and procedures should itself be open to citizen and NGO participation, and should otherwise follow good administrative procedures, including notice of the review, the opportunity to comment, and to have the comments addressed by the Bank, and ultimately the opportunity for review by the Panel. This will help stop any slight of hand to move relevant standards outside the Panel's purview.

**B. The Inspection Panel's Operating Procedures: The First Test of Independence and Credibility.**

Despite the serious shortcomings in the resolution, our initial enthusiasm for the Panel can still be vindicated if the Panel is allowed to develop and implement strong operating procedures. Indeed, developing clear and effective procedures will be the first test of the panel's willingness and ability to be a credible and independent force. The Panel must establish a set of administrative rules that will guide potential claimants and bind the Panel to a consistent, open and independent process. The Panel must promote the rule of law, accountability and transparency as much by example as by its findings of fact and recommendations it makes in specific cases.

In devising its administrative procedures, the Panel has the opportunity to correct many of the deficiencies in the resolution by emphasizing openness and thoroughness in its investigations. CIEL and the International Rivers Network have provided a draft set of rules for the Inspection Panel; these rules would ensure that the Inspection Panel takes advantage of the maximum amount of independence, credibility and transparency allowed under what is admittedly a flawed resolution.

We ask today that the U.S. government follow the development of these procedures closely and make sure that they fully reflect our concern with the standards of good governance: openness, transparency, objectivity and accountability. The U.S. Treasury and the Congress should ensure that the following features, among others, are included in the procedures:

**Increased Transparency.** Although the Panel's final recommendations must go to the Board before they are made public, there are other important aspects of the investigation that should and must be made public as soon as possible. Examples include: the basic nature of a claim when it is filed, the schedule for investigating the claim, any information supporting the potential recusal of a Panel member, and interim findings of fact (so that the complainant and the public can have a chance to provide supplemental information).

**Increased Accountability.** The Panel must compile a careful record of how it conducts the investigation and what information it uses to make a decision. The panel must consider all relevant facts, base its decision on the record of relevant facts compiled during the investigation, and must set forth the reasoning of their decisions in writing. These are fundamental and proven procedures for limiting arbitrary decisions and ensuring that objective facts and reasoning, and not pure political concerns, control the investigation and the decision.

**Increased Effectiveness.** The Panel's procedures should reflect an aggressive approach to investigating each individual claim and to improving Bank operations and policies. To this end, the Panel should ensure that it is given maximum cooperation from

Bank staff and Borrowing Country governments. One way we suggest to do this is by announcing that the Panel will assume facts in favor of the claimant if the Borrowing Country or any key staff member of the Bank interferes with the Panel's ability to investigate those facts fully (for example, by refusing access to the project site). In addition, the Panel should use the opportunity presented by the Annual Report to make clear recommendations for improving the Bank's operational policies and procedures. For example, the Panel may want to recommend that the Bank include a provision in all loan applications requiring Borrower Countries to cooperate fully with the Panel, or to ensure that the public is provided adequate notice before a Closing Date is set or loans are substantially disbursed.

**Open Process for Developing the Panel's Procedures.** It is not just the substance of the procedures for the Panel that is important, but also the process by which the Panel's procedures are adopted. The U.S. government should ensure that the Panel is implemented in a way that reflects the goals of participatory democracy, good governance, and accountability that underlie the foundation of the Panel. The Panel should issue a set of draft procedures that allow the public ample opportunity to review and comment on them. This "notice and comment" procedure is a basic element of good administrative process and should be routinely expected by the U.S. government in international rulemaking. Moreover, the Panel should announce now that the original procedures will be revisited in one year, based on the initial experience in handling complaints. At that time, the Panel should release a new draft set of procedures and provide an additional comment period for the public.

The Congress and the Administration must follow both the substantive and procedural development of the Panel's rules very closely, not only to ensure the success of the Panel, but also because they can be an important precedent for all international institutions. The Inspection Panel is really an experiment in increasing the public accountability of an international institution. As such, its success would provide the U.S. government with an important model for ensuring accountability in other international institutions.

## III. The Need for a Uniform Set of Administrative Procedures for International Organizations.

At the same time that the Inspection Panel provides a potentially positive model for a mechanism to increase public accountability of international institutions, it also provides a negative model of why we need to move this debate – the one we are having today – to a broader forum. The U.S. government and U.S. NGOs are continually fighting for open, democratic rules of procedure in our international institutions. Today, we are discussing minimal procedural rules for the Inspection Panel. But last year, we discussed procedures for the World Bank generally and the Global Environment Facility; next we will be discussing these same issues with regard to the World Trade Organization and the NAFTA institutions.

Rather than repeat these discussions over and over again, it is time for this Congress and this Administration to recognize the need to make uniform international administrative procedures a high priority of our international diplomatic efforts. The Congress and this Administration need to push for a Framework Agreement for International Administrative Procedures, which can then incorporate into all international institutions the basic principles of public participation and good governance that underlie our conception of participatory democracy.

It is important to develop such a framework agreement as soon as possible because we are giving our international institutions more and more power – power which increasingly threatens U.S. standards for the environment and other social protections. An international framework agreement may be the only way to ensure that democratic principles of accountability keep pace with these new powers.

### A. Growth of New International Organizations

In the past few years we have seen a proliferation of international institutions. Since 1989, two new multilateral development banks (the EBRD and the NADBank) have been created; the GEF, created in 1990, was restructured and made permanent this year. The NAFTA created several important regional commissions and, perhaps most ominously, the new World Trade Organization may yet come into being. In the environmental area, two new secretariats (for the biodiversity and climate change conventions) and a new UN Commission on Sustainable Development were created at the U.N. Conference on Environment in Development in 1992, and another secretariat is expected from the desertification negotiations now underway.

An international framework agreement for administrative procedures is not only necessary to ensure openness, accountability and good governance at the World Bank and the Inspection Panel, but also at these other international financial, trade and environment institutions.

### B. Expanding Powers of International Organizations as Threats to Democratically–Determined U.S. Domestic Environmental Standards

Some of the newer international institutions, including those in the international trade area, provide particularly vivid illustrations of why uniform procedural standards are necessary. These institutions are increasingly exercising powers that threaten our democratically–determined domestic standards without the procedures we would demand (indeed constitutionally require) in our domestic decisionmaking.[3]

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[3] See e.g., European Commission, REPORT ON UNITED STATES BARRIERS TO TRADE AND INVESTMENT (Brussels, April 1994), Doc. No, I/194/94 (listing U.S. environmental and other laws the European Union asserts are in violation of international trade laws and must be changed).

For example, the recent GATT panel decision (now known as Tuna-Dolphin II[4]) holding the U.S. Marine Mammal Protection Act inconsistent with the GATT, was severely criticized by Ambassador Mickey Kantor, the U.S. Trade Representative, who suggested the U.S. might appeal in part on the grounds that the GATT does not allow for sufficient public participation.[5]

Similar, perhaps even greater, powers as those exercised by the GATT panel will now reside in the NAFTA commissions and the new World Trade Organization (if it is ever established). As these international organizations reduce the barriers to international economic integration, we must simultaneously develop the administrative procedures to reduce the barriers to international public participation and accountability.

These international institutions are effectively moving much of the important decisionmaking for sustainable development to the international sphere. We must at the same time ensure that critical democratic checks on power are also moved to the international level.

### B. U.S. Commitment to Principles of Participatory Democracy and Good Governance

The U.S. government has repeatedly expressed its commitment to participatory democracy in the international arena, both in its words and its deeds. One example is the practice of including U.S. NGOs as observers on official delegations to international environmental conferences and negotiations. Another example is the commitment of our bilateral foreign assistance program administered by AID.[6] These principles would be furthered tremendously by international Framework Agreement on Administrative Procedures for all IGOs.

The United States also must get its own house in order, by readjusting the balance between the rights of the public to participate domestically in international matters and the

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[4] *See* General Agreement on Tariffs and Trade (GATT), *United States - Restrictions on Imports of Tuna*, Report of the Panel, GATT doc. no. DS291R, June 1994. *See also*, DONALD GOLDBERG, GATT TUNA-DOLPHIN II: ENVIRONMENT PROTECTION CONTINUES TO CLASH WITH FREE TRADE, CIEL BRIEF NO. 2 (June 1994) (analyzing the GATT panel reports in both Tuna/Dolphin I and II).

[5] Ambassador Mickey Kantor, United States Trade Representative, *USTR to Challenge GATT Panel's Failure to Provide Open Hearings and Due Process Regarding U.S. Tuna Embargoes, Substantive Matters* (Press Release) May 23, 1994.

[6] *See e.g.*, mark up of Peace, Prosperity and Democracy Act of 1994 (June 15, 1994); *See also* the draft principles of the President's Council on Sustainable Development (June 9, 1994) (calling for open decision-making regarding sustainable development with the participation of an informed public).

current foreign policy exception in the U. S. Administrative Procedures Act, which severely limits the public.[7] This will help us continue to lead by example.

**C. International Commitment to Public Participation, Information Disclosure, and Judicial Accountability**

The international community also supports public participation, information disclosure and accountability. The Rio Declaration and Agenda 21 illustrate this commitment in the environmental field. Principle 10 of the Rio Declaration is an example:

> "States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided".[8]

Similarly, Agenda 21 states:

> "One of the fundamental prerequisites for the achievement of sustainable development is broad public participation in decision-making .... This includes the need of individuals, groups and organizations to participate in environmental impact assesment procedures and to know about and participate in decisions...."[9]

In the human rights field, the Convention on Civil and Political Rights guarantees every citizen the right to "take part in the conduct of public affairs, directly or through freely chosen representative and to have access, on general terms of equality, to public service in his [sic] country."[10]

These principles are today too often rhetorical, but they will be turned into reality by an International Framework Agreement for Administrative Procedures for International Organizations. Our international organizations should lead the way towards democracy first and foremost by their actions. And within the IGOs, the US should lead the way.

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[7] David A. Wirth, *The International Trade Regime and the Municipal law of Federal States: How Close a Fit, in* TRADE AND THE ENVIRONMENT: LAW ECONOMICS AND POLICY (Durwood Zaelke et al. eds., 1993).

[8] Rio Declaration on Environment and Development, Principle 10, June 14, 1992, U.N. Doc. A/CONF.1515/Rev.1 (1992), reprinted in 31 I.L.M. 876 (1992). See also Hunter, et al., CONCEPTS AND PRINCIPLES OF INTERNATIONAL ENVIRONMENTAL LAW: AN INTRODUCTION, UNEP Trade and Environment Monograph No. 2 (1994) (which includes a discussion of the right to public participation, and equal access to administrative and judicial proceedings, with references to the appropriate principles from the Rio Declaration, especially principles 17-22).

[9] *Report of the United Nations Conference on Environment and Development*, Chapter 23, at 23.2, U.N. Doc. A/CONF.151/26 (Vol. III) (1992).

[10] GA Res. 2200, Int'l Conv. on Civil ad Political Rights, 999 UNTS 171, Dec. 16, 1966.

### D. Benefits of Uniform and Open Administrative Procedures

Environmental protection and sustainable development must be built on the foundation of good governance, and good governance in turn must be built on the rule of law. This includes good administrative procedures and access to independent review and redress.

Industry needs good governance and the rule of law, as do NGOs and citizens, and industry can be expected to support such an effort as proposed here. The experience with NAFTA suggests as much; one of the primary reasons multinational corporations supported NAFTA was their interest in investment security, through transparent and accountable procedures. NAFTA's intellectual property provisions provide a powerful illustration.

## IV. Conclusion

In conclusion, the Panel's administrative procedures must be the best possible procedures, so the Panel can succeed with its critical job. And they must be developed through an open and democratic process, following the same spirit of openness and democracy that inspired the Panel itself.

Moreover, the Panel's procedures must be the best possible, so that they can be used as an example for other international organizations, demonstrating what good administrative procedures should be like. All of the IGOs we have created need to improve their administrative procedures to advance public participation and other aspects of participatory democracy, as well as good governance generally, and accountability to those who created them, to those who fund them, and to those they were designed to benefit.

Treasury should participate fully in this process, and carefully review the way the administrative procedures are designed and adopted by the Panel, as well as the final procedures themselves. Treasury should do this in coordination with other relevant U.S. agencies, including the State Department, the Department of Justice, the Environmental Protection Agency, the Department of Interior, the Department of Commerce, and the USTR, among others.

The Panel is one of the most important advances in international governance, environmental or otherwise, but it is still an experiment. It must still be carefully guided by Congress, by Treasury and other agencies, and by the international community of states, as well as by NGOs and citizens throughout the world. The Panel is far too important not to succeed.

# PROPOSED RULES OF PROCEDURE FOR THE WORLD BANK'S INSPECTION PANEL

June 18, 1994

Written by:
Lori Udall, International Rivers Network
David Hunter, Center for International Environmental Law

The World Bank Inspection Panel was created to give parties who are adversely affected by Bank-financed projects a forum in which to hold the Bank accountable to its policies and procedures. The three-member Panel will receive and investigate claims filed by citizens, nongovernmental organizations and others who claim that the Bank's failure to comply with its policies, procedures and loan agreements have caused them harm. The following are proposed rules of procedure for the Panel. Any comments on these proposed rules should be provided to Lori Udall at the International Rivers Network or David Hunter at the Center for International Environmental Law.

**I. Who can file a claim**

The following parties can file a claim before the Panel:

1) any group, nongovernmental organization, association or society representing themselves or an affected party in the country where the project in question is located;

2) a representative group outside the borrower country if:

(a) the claimant shows there is no appropriate local representation, and
(b) the Executive Directors agree at the time they consider the claim; and

3) A single Executive Director or the Board of Executive Directors.

**II. Claims That the Panel Will Not Accept**

The Panel will not accept the following claims:

1) Claims which do not involve an act or omission on the part of the Bank;

2) Claims dealing with procurement issues, such as agreements between the World Bank and commercial contractors;

3) Claims from a single individual;

4) Claims on projects filed after the closing date of the loan or credit for that project or after 95% of the loan or credit has been disbursed for that project, *unless the claimant gives evidence that they are directly and adversely affected by the Bank's failure to enforce loan conditions that are still in effect after project completion.*

5) Claims relating to matters previously considered by the Panel, unless justified by new evidence or changed circumstances not known at the time of the original complaint.

III. Filing a Claim

A. In order to file a claim, a party should demonstrate all of the following elements:

1) The affected party's rights or interests have been or are likely to be directly affected by an act or omission of the World Bank as a result of a failure of the Bank to follow its policies and procedures or loan agreements:

2) The failure to enforce policies, procedures or loan agreements was in the course of the design, appraisal, or implementation of a World Bank financed project, and

3) The failure has had or threatens to have a material adverse effect on the affected party.

4) The claimant has brought the issue to the attention of Bank Management, and the Bank Management has failed to respond or its response was inadequate.

B. All claims must be submitted in writing to the Panel. Claims may be submitted in the local language or any of the United Nations official languages.

C. Claimants who need advice on submitting a claim should contact the Panel, which will provide information on how to file a claim and will meet with potential claimants to discuss how to file a claim.

D. Claimants should prepare a memorandum containing the following information:

1) A description of the project, stating all the relevant facts including the harm suffered by or threatened to the affected party;

2) An explanation of how World Bank policies, procedures or loan agreements were violated, including citations to specific sections of the relevant policies;

3) A description of how the act or omission on the part of the Bank lead to a violation of the specific provision;

4) A description of how the claiming party was adversely affected or is likely to be adversely affected by the Bank's act or omission and what rights or interests of the claimant were affected;

5) A description of steps taken by the claimant to resolve the violations through correspondence and/or meetings with World Bank staff, including an account of how the Bank responded to the claimant and what steps the Bank did or did not take to mitigate the situation;

6) In claims relating to matters previously submitted to the Panel, a statement specifying what new evidence or changed circumstances justifies the Panel revisiting the issue.

7) Where the complainant requests other than local representation, a statement explaining why comparable local representation is not available.

E. To the extent possible, all correspondence with World Bank staff and officials should be organized and attached to the memorandum.

F. To the extent possible, minutes of meetings with World Bank operations staff or task managers should be written down and included with the complaints.

G. If the claimant cannot submit all the information above, the claimant should submit as much information as possible about the claim and describe the efforts the claimant has taken to try to obtain additional information, including attempts to correspond or meet with Bank management.

H. Where other than a local representative is representing the complainant, the representative shall submit a signed letter from the complainant or some other written evidence that the representative is acting as the agent for the complainant.

IV. Accepting a Claim

A. Within 42 days of receiving a claim, the Panel shall make a recommendation to the Board of Executive Directors to investigate the claim. After a claim is received and sent to Bank management, Bank management has 21 days to respond to the Panel with evidence that it has complied or intends to comply with the Bank's relevant policies or procedures. After the Panel receives management's response, the Panel has a total of 21 days to recommend to the Executive Directors whether the matter should be investigated. All efforts will be made to handle the claims expeditiously and efficiently in as short a time period as possible.

B. The Panel will follow the procedures below:

1) Within two weeks of receiving a claim, the Panel shall send a written acknowledgement to the claimant. If the Panel needs more information or documentation regarding the claim, the Panel will specify at that time what additional information is required. The Panel may refuse to consider a claim until all necessary information and documentation is submitted, unless the Panel finds that such information or documentation is not readily obtainable by the claimant and that it already has sufficient information or documentation to evaluate the claim.

2) Upon receipt of the claim, the Panel will immediately notify the Office of the President and the Board of Executive Directors of the claim. Copies of the claim and supporting documents will be sent to the relevant task manager, country director, and regional vice-president in the Bank. The Panel will request Bank management to respond to the claim with supporting documentation in 21 days or less.

3) Upon receiving management response to the claim, the Panel may send management's response or portions thereof to the claimant for comment before the Panel makes a determination to investigate the claim;

4) The Panel shall submit its recommendation to the Board no later than 21 days after receiving management's response. If management did not respond in the 21-day period provided, the Panel can make its recommendation to the board at any time but no later than 42 days after receiving the claim.

5) When deciding whether to investigate a claim, the Panel will have complete access to all relevant Bank files and any Bank staff that are directly or indirectly involved in the project. This includes access to relevant files other then those provided by Bank management in their response to the claim. The Panel shall consult with the Executive Director representing the Borrowing (or guaranteeing) country on the subject matter of the claim prior to submitting its recommendation to the Board.

6) During the six week period when the Panel is determining whether to investigate the claim, the Panel will accept outside public comments regarding the claim. Comments should be a maximum of ten pages and information should either directly support or oppose the subject of the claim.

7) The Panel will issue a public notice that a claim has been received. The notice will include the name of the project, the country where the project is located, the name of the claimant and a brief description of the claim. The notice will be provided in the local language in a local newspaper or some other similar method that ensures the public in the affected area has been informed of the claim.

8) If the claimant requests anonymity, the Panel will not release information about

the claim publicly. If the Panel has reason to believe that the claimant could be endangered for filing the claim, the Panel can choose to keep the name of the claimant absolutely confidential.

9) If upon receipt of a claim or anytime during the investigation, the Panel determines that affected parties may be adversely harmed during the course of the investigation, the Panel may recommend to the Board and to Bank Management a temporary suspension of the project. Such a recommendation shall be submitted to the claimant and made public at the same time it is submitted to the Board and Bank Management.

10) Panel members shall recuse themselves from the evaluation, hearing or investigation of any request related to a matter in which the member has a personal interest or had significant involvement in any capacity. Panel members shall disclose in writing any prior interest or involvement in any case and may be disqualified by vote of the other panel members or the executive director. Any such disclosure shall be made immediately available to the complainant and to the public.

11) At the same time the Panel provides to the Board its recommendation regarding whether to investigate a claim, the Panel will also notify the claimant and the public of its recommendation. Every recommendation must be accompanied by a clear explanation setting forth the reasons for the recommendation.

12) The Board's decision regarding whether the Panel can investigate a claim will be sent to the claimant and made public within 24 hours of the decision, along with the name of the Panel member who will take the lead in the investigation.

13) Any Board decision regarding whether a non-local representative can represent the complainant shall also be made public within 24 hours of the decision. Such representation shall be made when the Board agrees the appropriate representation is not locally available. The Panel shall recommend to the Board its opinion about whether appropriate representation is available, based on the following factors: (1) the relative availability, interest and resources of trained, local representatives versus the representatives chosen by the complainant; (2) cost of local representatives versus the representative chosen by the complainant; and (3) the complainant's ability to trust and depend on local counsel to pursue their case compared to the representative chosen by the complainant.

V. Investigating a Claim

A. The Panel may use a variety of methods to investigate a claim, including but not limited to:

1) meetings with claimants, affected people, local and international NGOs, World

Bank staff, borrower country government officials, and project authorities;

2) holding public hearings in the project area;

3) taking site visits to project sites;

4) requesting written or oral submissions on specific issues by the claimant, independent experts, affected people, consultants, non-government organizations, government officials or World Bank staff;

5) hiring independent consultants to research specific issues relating to a claim;

6) researching World Bank project files; and

7) any other reasonable method normally used for conducting such an investigation.

B. The schedule, including the length of time, for investigating a claim shall be determined by the Panel members and shall be made public as soon as possible;

C. The Panel shall seek consent of the Borrowing Country prior to conducting any inspections in its territory. Any failure to provide such consent shall be made immediately know to the Bank Management, the Board, the claimant, and the public. To the extent that refusal of consent limits the Panel's ability to obtain all of the necessary facts to evaluate the claim, the Panel shall assume any such facts in support of the claimant. To the extent that any person associated with or employed by the Borrowing Country or the Bank refuses to provide testimony when requested by the Panel and such refusal limits the Panel's ability to obtain all of the necessary facts to evaluate the claim, the Panel shall assume any such facts in support of the claimant.

D. During the course of the investigation, the claimant and any member of the public shall have the right to provide the Panel with supplemental information that they believe is relevant to evaluating the claim.

E. The Panel shall make available to the claimant as soon as possible any draft findings of fact and give the claimant an opportunity to respond to negative findings before the final report is sent to the Bank Management and President.

VI. Panel Reports

A. The Panel will submit its report to the Board of Executive Directors and the President. Within six weeks of receiving the Panel's report, Bank management will submit its response to the report to the Board and the Panel. After the Board considers the report and the management response, the report is released to the claimant. The claimant is also informed what action the Bank has taken, if any.

B. The Panel's recommendations shall be based on a consideration of the facts in the record and any presumptions required under Part V.C. of these rules.

C. The public and the claimant will be notified when the Panel sends its report to the Board of Executive Directors, and the Panel member responsible for writing the report will be available to the claimant and the public to discuss the findings and recommendations of the report.

D. The Panel will include in its recommendations to Executive Directors a recommendation regarding the urgency of the report in order to ensure its timely consideration by the Executive Directors.

E. Panel reports shall include the following elements:

1) findings of fact and recommendations submitted to the Board of Executive Directors on how the Bank should address the problems in the complaint, including any recommendations on whether the project should be suspended, modified or canceled;

2) a record of decision explaining why the Panel is making the recommendations it is making in light of the facts;

3) any response from Bank management regarding the recommendation to investigate the claim or the recommendations made at the end of the investigation;

4) in the absence of consensus in the Panel, any majority and minority opinions;

5) a detailed description of the steps taken to investigate the claim; and

6) a separate appendix constituting the record of the investigation, including a copy of the claim; notes from any meetings or interviews that provided facts used in making its recommendations; copies of all comments received from the public, Bank Management, witnesses or other interested persons; and a copy of all documents considered by the Panel in making its recommendations;

F. No later than two weeks after the Board decision, the Panel shall release the report to the public. All reports shall be made available at the Public Information Center, the Tokyo, Paris and London offices of the Bank, the field office in the Borrowing country where the claim originated, and a library at the Panel's secretariat. All reports will be available at cost to the public.

**VII. Annual Reports**

Every year the Panel shall publish an annual report summarizing the claims and their disposition, identifying any trends in the number, content or scope of the complaints,

evaluating the role of the Panel, and making any recommendations for improving the Panel's or the Bank's operations, including any proposals for amendments to the resolution, the Panel's budget, Bank operational directives, or the other operating policies and procedures of the Bank.

**VIII. Nominating Panel Members**

The Panel shall be made up of three members of different nationalities from Bank member countries. The President, after consultation with the Executive Directors, shall nominate the members of the Panel to be appointed by the Executive Directors. At least three weeks before the Executive Directors vote on any Panel member, the name of the nominee shall be made publicly available.

**IX. Amendments to the Resolution or Rules**

A. Any Executive Director or Panel Member may submit to the Board of Executive Directors a proposal for amendment to the Resolutions creating this Panel (Resolution No. 93-10 and Resolution No. IDA 93-6). At least three weeks before the Board votes on any such proposal, the proposal shall be made available to the public.

B. These rules may be amended by majority vote of the Panel, provided that the proposed amendments to these procedures have been made available to the Executive Directors, Bank Management and the public at least three weeks prior to the Panel vote.

Memorandum

To: House Subcommittee on International Development, Finance, Trade and Monetary Policy

From: Lori Udall, International Rivers Network .

Re: Comments Regarding World Bank Memorandum, Jan Wijnand, June 20, 1994 on Disclosure of Factual Technical Information

Date: 25 August 1994

The World Bank Procedures (BP 17.50) on Disclosure of Operational Information contain a provision which allows for the release of factual technical information which states:

If an interested party requests additional technical information about a project under preparation, the country director releases factual technical documents or portions of such documents, after consulting with the government to identify any sections that involve confidential material or that could compromise relations between the government and the Bank" (Bank Procedures 17.50, provision 5).

The issue of what constitutes "factual technical information" has been in dispute since the Bank approved its new information policy and procedures in August 1993. NGOs have asserted that factual technical information means the release of all project documents or portions of documents that are factual and technical in nature. Aside from documents such as feasibility studies and baseline data, NGOs believe this should include the release of early World Bank project documents such as yellow and green cover draft staff appraisal reports. This view was also put forward by some Bank staff in the "alternative view" which is discussed in my testimony (see page 3). Other Bank staff have maintained that this provision means the release of background documents upon which Bank staff appraisal reports are based.

Finally on June 20, 1994, one day before the special oversight hearing held by this Subcommittee concerning the implementation of the new information policy and developments around the Inspection Panel, the World Bank issued guidelines on disclosure of factual technical documents.

According to the June 20th guidelines, documents that may be made available to the public include:

o prefeasibility studies
o feasibility studies, including cost/benefit analysis
o site and soil investigations
o detailed design studies

o financial statements of executing agencies for past fiscal years
o descriptive material on the institutional framework
o technical studies underlying environmental impact assessments
o project-related poverty analysis

This list does represent a positive step forward, but does not in itself guarantee that local communities that want to influence projects will have the necessary information they need. The Bank's analyses and/or synthesis of this data is also important. Consequently, NGOs believe the list should also include World Bank project documents such as the initial executive project summaries, executive project summaries and yellow and green cover staff appraisal reports, as well as other important technical information regarding the project finances, and studies on alternatives.

**Why the Bank Should Release Draft Staff Appraisal Reports**

Draft (yellow and green cover) staff appraisal reports are the most critical as these documents contain the Bank's basic justification for its involvement in the project. Moreover, without the draft staff appraisal reports it is impossible to tell how Bank staff manipulate/or synthesize the background technical information to justify its involvement in the project and to support its assertions. For example, there may be background technical documents that differ with each other on facts or figures, it is essential for local people and NGOs to know which of those facts or figures are used or left out by the Bank in its own pre-appraisal or appraisal documents.

For example, in 1991 a draft staff appraisal report on the Narmada Basin Development Loan (a supplemental loan to the Sardar Sarovar Dam which was never approved), contained a project component which involved the creation of a wildlife sanctuary. In the draft staff appraisal report, there was no acknowledgement that 40,000 tribal people living in the area of the wildlife sanctuary would most likely be displaced from their land. This was acknowledged however, in some of the background reports.

There is very little confidential information in green and yellow draft staff appraisal reports. Information that is confidential, such as the Bank's negotiating position, should be excised and the rest of the document should be released. Nor is there a compelling policy reason to withhold the information.

The release of information in the guidelines cannot substitute for the information that is in a staff appraisal report. A staff appraisal report is the main technical document of a project. Combined in this document is the basic justification for the project and the Bank's involvement in it.

The draft SAR contains information on:

Overview of the sector
institutions in that sector

The Bank's experience in that sector, past lending, lessons learned from past lending;
who are the beneficiaries of the project
the rationale for the Bank's involvement
the Projects objectives
Project description
physical components of the project
cost estimate
financing plan
financial analyses
disbursement schedule
monitoring and evaluation
supervision arrangements
project benefits
project risks
legal arrangements
procurement

All this information is critical for local people who want to challenge, oppose or have input in the design and planning of a project. Release of the final staff appraisal report after Board consideration is too late for communities to have input into project design and planning.

Other Factual Technical Information Which Should be Released

Other types of factual technical information which should be released publicly in a timely manner, includes but is not limited to, baseline data, in-depth economic analyses, complete financing plan and analyses of financial conditions of executing agencies, timetables, institutional analyses of implementing agencies, and detailed studies on alternatives.

In all cases, the presumption in favor of disclosure should be operationalized. If an information request for factual technical information is denied, Bank staff should be required to provide a compelling policy reason why the information is denied.

THE WORLD BANK/IFC/MIGA

# OFFICE MEMORANDUM

DATE: June 20, 1994

TO: Staff Recipients of the Operational Manual

FROM: Jan Wijnand, Acting Director, OPR

EXTENSION: 81490

SUBJECT: Disclosure of Factual Technical Documents

1. The Bank has recently received several external requests for technical information on projects that have not yet been approved by the Board. It has also received requests for information contained in the Memorandum and Recommendation of the President (MOP), a document that under *The World Bank Policy on Disclosure of Information*[1] (the Disclosure Policy) is not available to the public.[2]

2. The Disclosure Policy provides for three types of project documentation[3] to be disclosed *prior to Board approval*: (a) the Project Information Document (PID); (b) environment-related documents—environmental data sheets, assessments (EAs), and analyses[4]—and (c) factual technical documents.[5] PIDs and environment-related documents are released through the Public Information Center (PIC) according to procedures set out in BP 17.50, *Disclosure of Operational Information*. The purpose of this memorandum is to clarify the procedures for disclosure of factual technical documents and address the issue of the release of information about projects that do not have Staff Appraisal Reports (SARs).

*Factual Technical Documents*

3. The term *factual technical documents* refers principally to project-related technical information gathered or received by the Bank from agencies or consultants associated with the project, the borrower, or the government of the country concerned. The following are examples

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1. Washington, D.C.: World Bank, March 1994.

2. Like the MOP (which is used for investment projects), the President's Report for adjustment operations is also not made available to the public. See Disclosure Policy, para. 50.

3. Executive Project Summaries (EPSs), whether in initial (IEPS), intermediate (EPS), or final (FEPS) stages, are not made available to external users. See Disclosure Policy, para. 53.

4. Borrower governments' Environmental Action Plans (EAPs) are also available to the public through the Public Information Center once the Bank has officially received them and has obtained the governments' consent for release. EAs and environmental analyses incorporate, whenever relevant, resettlement plans and indigenous peoples development plans.

5. Para. 12 of the Disclosure Policy states:
> Should an interested party request more technical information about a project on which the Bank is working, the Country Department Director responsible may release factual technical documents, or parts thereof, after consultation with the government concerned.

of factual technical documents that may be made available to the public (according to the procedures outlined in this memorandum):

- prefeasibility studies
- feasibility studies, including cost-benefit analyses
- site and soil investigations
- detailed design studies
- financial statements of executing agencies for past fiscal years
- descriptive material on the institutional framework
- technical studies underlying environmental impact analyses
- project-related poverty analyses

Given the Bank's limited experience with the disclosure of factual technical documents, staff may consider this list as indicative. It is important to bear in mind that the Bank has a presumption in favor of disclosure; thus the only factual technical documents the Bank does not release are those that (a) involve confidential material or material that could compromise government/Bank interactions, or (b) are directly related to internal Bank decision making. If in doubt, staff may consult with OPRPG.

4. Our response to requests for specific project-related documents of the types listed in para. 3 depends on their source and nature (e.g., who owns them and whether they have already been made available to the public by the government concerned):

(a) Technical documents already made publicly available by the government of the country concerned are disclosed without further consultation with the government.

(b) Technical documents (or any parts of such documents) that are prepared by project/borrower/government agencies or their consultants and are not made publicly available by the government of the country concerned may be disclosed by the country department (CD) director after consultation with the country official responsible for Bank/country relations. Together, they identify any text or data that are confidential or sensitive or that could adversely affect relations with the Bank. Before releasing the technical documents or parts thereof, the CD director makes any adjustments necessary to deal with matters of concern. In exceptional cases, if extensive issues of confidentiality arise, exceptions to the policy of public release may be authorized by the CD director for specific technical documents.

(c) Technical documents prepared by Bank staff using material provided by the government may be disclosed by the CD director after consultation with the country official responsible for Bank/country relations. Together, they identify any text or data that are confidential or sensitive or that could adversely affect relations with the Bank. Before releasing the technical documents or parts thereof, the CD director makes any adjustments necessary to deal with matters of concern. In exceptional cases, if extensive issues of confidentiality arise, exceptions to the policy of public release may be authorized by the CD director for specific technical documents.

*Procedures*

5. Most external requests have been individual requests for specific project-related technical information or for technical documents of the types listed in para. 3. Country department staff

who receive such requests may release such documents (or parts of the documents) through the PIC, after consulting the government concerned as described in para. 4 (b) and (c). All such documents sent to the PIC are accompanied by a cover sheet indicating the country, the project name and number, and the names of the task manager and a back-up staff member on the project team.

6. However, there have been a substantial number of blanket requests for project-related technical information on a few specific projects. Since the quantity of factual technical documents in these projects may be large, experience has shown that it is appropriate for country departments to take the following steps upon receiving such requests:

(a) Staff prepare a list of the existing factual technical documents (or portions of documents) for a project.

(b) Staff consult with the country official concerned to identify, from the list, the documents belonging to categories (b) and (c) in para. 4 that can be released, in whole or in part, to outside parties.

(c) The country department makes available to the PIC the list and the documents (or parts of documents) available for release. The documents are accompanied by a cover sheet as described in para. 5.

(d) Outside parties that request technical information on the project are referred to the PIC or the relevant resident mission; they may consult the list and request specific documents.

(e) PIC staff make these documents available to the requesting parties for consultation either at Bank headquarters or at the relevant resident mission. Users who wish to obtain copies of selected documents (or parts of documents) may photocopy the documents, at the PIC, for a fee.

*Requests for Documents Following Board Approval*

7. Under the Disclosure Policy, the MOP is not made available to the public.[6] After an investment loan is approved by the Board, the SAR is made available through the PIC according to the procedures set out in para. 14 of the Disclosure Policy.[7] For technical assistance loans (TALs) and emergency recovery loans (ERLs), which do not have SARs, the technical annexes to the MOP are no longer bound with the MOP but are instead prepared as a separate document. The prospective borrowing government is asked to identify during negotiations any portion of this technical annex that is confidential or sensitive or that could adversely affect relations with

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6. See Disclosure Policy, para. 50.

7. Para. 14 of the Disclosure Policy states:
   During negotiations the prospective borrowing government is asked to identify any text or data in the SAR that is confidential or sensitive or could adversely affect relations with the Bank. As appropriate, adjustments would be made to deal with matters of concern. If, in exceptional cases, extensive issues of confidentiality arise, the Country Director concerned may restrict release of the SAR. The cover of any such SAR will carry a note stating that release is restricted.

the Bank. As appropriate, country department staff may modify this technical annex to deal with matters of concern to the government. Once the TAL/ERL is approved by the Board, when an external party requests technical information, the CD director makes the technical annex available to the interested party through the PIC. As with SARs, if in exceptional cases extensive issues of confidentiality arise, the country department director may restrict release of this technical annex.

*Role of OPR*

8. For the next six months, while we gain experience with the disclosure of factual technical information, OPRPG is available to provide advice and guidance if staff require assistance in interpreting the requirements of the Disclosure Policy. Once we have gained sufficient experience with the disclosure of factual technical information, we will revise and reissue BP 17.50, *Disclosure of Operational Information.*

cc: Messrs./Mmes. Karaosmanoglu, Sandstrom, Stern, McHugh, Kalantzopoulos (EXC); Bruno (DECVP); Burki (LACVP); Choksi (HROVP); Eccles (CTRVP); Husain (MPSVP); Jaycox (AFRVP); Kaji (EAPVP); Kashiwaya (CFSVP); Koch-Weser (MNAVP); Linn (FPRVP); Picciotto (DGO); Rischard (FPDVP); Serageldin (ESDVP); Shihata (LEGVP); Thahane (SECVP); Thalwitz (ECAVP); Wood (SASVP); Wijnand, Pommier, Datta-Mitra (OPRPG)

Directives Manager's Files

# A Citzens' Guide To The World Bank's Information Policy

By Lori Udall
Bank Information Center

SEPTEMBER 1994

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## INTRODUCTION

On August 26, 1993, the World Bank Executive Directors approved a new and expanded information policy (Appendix I, World Bank Policy on Disclosure of Information)[1]. The new policy expands public availability of Bank project and sector investment documents, environmental and social information, and documents that contain information on economic and country sector work. The basis of the Bank's policy is that there is a presumption in favor of disclosure of information in the absence of a compelling reason not to disclose[2].

On January 1, 1994, the World Bank established a Public Information Center at its headquarters in Washington, DC that will contain most of the information available under the new policy. Information available under the new policy can also be requested from World Bank field offices in borrowing countries and in the Bank's offices in London, Paris and Tokyo. The establishment of both a new information policy and the Public Information Center was partly in response to NGOs, legislators and member governments lobbying for more transparency and public accountability at the World Bank.

The purpose of this Citizens' Guide is to help non-governmental organizations (NGOs), local communities and people directly affected by Bank projects to gain access to World Bank documents, and to utilize the new policy and the Public Information Center to the fullest extent possible. This guide describes what documents are available under the new policy, where to find them, and contains a glossary that describes what information is contained in specific project documents. **The information provided in this guide pertains to the information policy of the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA) only. It does not review the information policy of the International Finance Corporation (IFC). The IFC policy is however reproduced in its entirety in Appendix II for your information.**

This guide is based on five documents, four of which appear in the appendices:

1. The World Bank Policy on Disclosure of Information, March 1994 (Appendix I)
2. World Bank Procedures: Disclosure of Operational Information (BP 17.50), September 1993 (Appendix III).
3. World Bank Office Memorandum on Disclosure of Operational Information, Jan Wijnand, November 24, 1993 (Appendix IV);
4. World Bank Office Memorandum on Disclosure of Factual Technical Documents, Jan Wijnand, June 20, 1994 (Appendix V); and
5. Expanding Access to Bank Information (August 31, 1993)[3].

As a courtesy, the NGO Unit at the World Bank provides a document called the "Monthly Operational Summary of Bank and IDA Proposed Projects" (MOS) to a number of NGOs that are able to share the information and resources of the MOS, such as NGOs that participate in networks or coalitions or provide information and services in the development field. Such NGOs may apply to receive the MOS at no cost by requesting to be added to the "MOS mailing list." That request should be sent to: The NGO Unit, Operations Policy Department, The World Bank, 1818 "H" Street NW, Washington, D.C. 20433, USA. The fax number is (202) 522-3282.

Individuals, consultants and other interested parties may purchase an annual subscription to the MOS (12 issues per year) for US$ 125.00 from the following address:

Because the information policy is new, it may take some time for the 7,000 Bank personnel to become familiar with its implementation. Be persistent, always keep a copy of your communications, and don't become discouraged in your approach to the Bank. If you are unable to obtain the information that you are seeking and feel that it should be available under the policy, feel free to contact the Bank Information Center for support.

World Bank Publications
P.O. Box 7247-7956
Philadelphia, PA 19170-7956
USA

## INFORMATION AVAILABLE FROM THE WORLD BANK

### A. Project and Sector Investment Documents

Documents for individual projects or for sector loans (such as an energy or agricultural sector loan), which should be publicly available, include:

- Project Information Documents
- Factual Technical Project Documents
- Final Staff Appraisal Reports
- Loan and Credit Agreements
- Project Evaluation Summaries (Precis)

Requests for these documents can be made directly to the Public Information Center, the London, Paris and Tokyo World Bank offices, and field offices in borrowing countries. Field offices in borrowing countries, however, will only have project and sector information pertaining to that country. (See Appendix VII for addresses of these World Bank offices.)

**1. Project Information Documents**
*Effective Date:* Project Information Documents will be available for projects and sector loans identified after October 1, 1993.

The Project Information Document (PID) is a new category of document created for the public. It is the main source of public information about an individual project or sector loan at an early stage of project preparation and design. The Project Information

## DOCUMENTS AVAILABLE FROM THE PUBLIC INFORMATION CENTER

**The Public Information Center takes requests for specific documents. It does not take blanket requests for information. All documents released since the implementation of the new information policy should be available from the Public Information Center, unless otherwise stated in this guide.** The main documents available from the Public Information Center are:

1. Project Information Documents
2. Factual Technical Project Documents
3. Final Staff Appraisal Reports
4. Final Country Economic and Sector Work Reports
5. Sector Policy Papers
6. Environmental Data Sheets
7. Environmental Assessments
8. Environmental Analyses
9. National Environmental Action Plans
10. Summaries of Project Evaluation Reports (Precis)
11. Loan and Credit Agreements

If you would like to receive the monthly "List of Available Documents" from the Public Information Center (PIC) in Washington, you may contact the PIC and request that your name or organization be put on the mailing list. (See section III.B for address and phone number of the PIC.)

**All documents that are available from the Public Information Center in Washington, D.C. can also be ordered from World Bank branch offices in London, Tokyo and Paris and from World Bank field offices in borrowing countries. Borrowing country field offices will only have project and program documents pertaining to that country. Most of the information is available as of January 1, 1994, which is the date the Public Information Center opened. Exceptions to this are listed with the document description.**

The following documents are also available on Internet:

1) Project Information Documents
2) Environmental Data Sheets
3) Summaries of Project Evaluation Reports (Precis)

Document should be a minimum of two pages and give a brief factual summary of the main elements of the evolving project. This should include: (a) the project's objectives; (b) expected or probable components; (c) costs and financing; (d) environmental issues; (e) status of procurement and consulting services; (f) studies to be undertaken; (g) implementing agencies; and (h) relevant points of contact. The Project Information Document is supposed to be updated and expanded as the project is developed.

**2. Factual Technical Project Documents**
*Effective Date:* January 1, 1994

During project preparation, if more information is needed than is contained in the Project Information Document, requests can be made for Project or Sector Loan Documents containing "factual technical information". Factual technical documents start becoming available during project design and planning.

The Bank has defined Factual Technical Documents to include the following types of documents:

- prefeasibility studies
- feasibility studies, including cost/benefit analysis
- site and soil investigations
- detailed design studies
- financial statements of the agencies responsible for implementing the project
- a description of the institutional framework
- technical studies that support the environmental impact analysis
- project-related poverty analysis

**Special Tips on Requesting Factual Technical Documents:**

1. When requesting Factual Technical Documents, first send requests to the Public Information Center, or order the documents through your field office or the Tokyo, London or Paris offices.
2. If you do not get a timely response to your first request, send your request directly to the Country Director in the relevant Country Department.
3. The list of Factual Technical Documents (above) is preliminary and could be expanded later. If the information you want does not appear on this list, don't be discouraged. Request the information anyway and remember to be as specific as possible about what type of information or document you want. See document glossary (Appendix IX) for names and contents of other World Bank documents.
4. For more details on Factual Technical Documents refer to Appendix V.

**3. Final Staff Appraisal Reports**
*Effective Date:* Staff Appraisal Reports are publicly available for all projects and sector loans for which an "invitation to negotiate" was issued after October 1, 1993[4].

The Staff Appraisal Report is the main technical document of a project or sector loan. It is much more extensive than the Project Information Document.

Staff Appraisal Reports may contain the following information: (a) an in-depth description of the project or the sector (such as the energy or agricultural sector); (b) institutional issues; (c) the rationale for the Bank's involvement; (d) the goals and strategy for a given sector; (e) project origin and the status preparation; (f) details of legal agreements reached between the Bank and the borrower country; (g) monitoring and supervision arrangements; and (h) the financing plan and the economic justification.

Final Staff Appraisal Reports for projects and sector loans should be made publicly available after they are approved by the Board of Executive Directors.

4. Loan and Credit Agreements
*Effective Date:* January 1, 1994

Loan and credit agreements are the legal agreements between the World Bank and a borrowing country on a specific project or sector loan. Loan Agreements are legal agreements reached on loans financed by the International Bank for Reconstruction and Development (IBRD). Credit Agreements are legal agreements reached on credits financed by the International Development Association (IDA). Loan and credit agreements become public documents after the loan negotiations, when they are signed by the Bank and the borrower government. Negotiations occur right before the Board of Executive Directors votes to approve a project or sector loan. (To find out when a project is scheduled for board discussion, contact the Bank Information Center.)

5. Summaries of Evaluation Reports ("Precis")
*Effective Date:* January 1, 1994

A Precis is a summary of a Project Performance Audit Report. A Project Performance Audit Report is a project evaluation issued by the Operations Evaluation Department after Bank financing of a project has been completed.

B. Structural Adjustment Operations

1. Project Information Documents
*Effective Date:* January 1, 1994

Project Information Documents for World Bank structural adjustment operations should also be publicly available. These documents may contain background information on objectives, previ-

**WHEN DOCUMENTS BECOME PUBLICLY AVAILABLE DURING THE PROJECT CYCLE**

| Project Cycle | Documents Available |
|---|---|
| Identification | ——— |
| Preparation | Environmental Data Sheets<br>Project Information Documents |
| Detailed Design (Pre-appraisal) | Factual Technical Documents<br>Environmental Analyses<br>Environmental Assessments |
| Appraisal | Factual Technical Documents |
| Negotiation | ——— |
| Loan Approval | Final Staff Appraisal Report<br>Loan and Credit Agreements |
| Implementation | ——— |
| Supervision | ——— |
| Completion | Summaries of Project Evaluations |

ous Bank assistance to the country, poverty impact, and program implementation. Public Information Documents for structural adjustment operations should be available at the Public Information Center and on Internet at an early stage in project preparation.

2. Factual Technical Documents
*Effective Date:* January 1, 1994

Factual Technical Documents or information on World Bank structural adjustment operations should also be publicly available upon request. The information policy states "for sector and structural adjustment operations, which do not finance physical investments, PIDs identify the areas being examined" (para. 10). Interested parties should feel free to request factual information that pertains to those areas. The diversity of situations and scope of adjustment operations however prevent the Bank from defining more precisely the types of factual information that may be publicly available.

C. Environmental and Social Information

Under the World Bank's Information Policy, the environmental documents that should be publicly available are:

1. Environmental Assessments for IBRD and IDA funded "Category A" projects
2. Environmental Analyses for IBRD and IDA "Category B" projects
3. Environmental Data Sheets
4. National Environmental Action Plans

Social documents such as resettlement plans and indigenous peoples plans should be available as part of environmental assessments or environmental analyses. These documents can be requested from the World Bank Public Information Center, branch offices and field offices.

1. Environmental Assessments (EAs)
*Effective Date:* "Category A" IBRD Projects: January 1, 1994
"Category A" IDA Projects: July 1, 1993

Project specific Environmental Assessments normally contain the following information: (a) existing environmental baseline conditions; (b) potential environmental impacts, direct and indirect, including opportunities for environmental enhancement; (c) systematic environmental comparison of alternative investments, sites, technologies and designs; (d) preventive, mitigatory, compensatory measures generally in the form of an environmental mitigation plan; (e) environmental management and training; and (f) monitoring plans.

Sector Environmental Assessments may contain: (a) sector investment alternatives; (b) the effect of sector policy changes; (c) institutional capacities and requirements for environmental review, implementation, and monitoring at the sectoral level; and (d) the cumulative impact of many relatively small, similar investments in the sector.

Environmental Assessments for "Category A" IBRD/IDA projects should be available in the Public Information Center after the assessments are made publicly available in the borrower country. A provision in the new information policy requires that, in addition to requirements for environmental assessments covered in Operational Directive 4.01, before the Bank proceeds to appraisal, *the EA must be made available in some public place accessible to affected groups and local NGOs.* After it is released in the borrower country and sent to the Bank, the Bank will make it publicly available in the Public Information Center. NGOs and interested parties in borrowing countries should request the environmental assessment from the World Bank field office in their country if it is not available in some public place near the project site.

NOTE: For more information about environmental categories and the World Bank's Environmental Assessment Process see "A Citizen's Guide to World Bank Environmental Assessment Procedures", published by the Bank Information Center, 1992.

2. Environmental Analyses

*Effective Date:* IBRD "Category B" projects on January 1, 1994
IDA "Category B projects since July 1, 1993

Environmental analyses are completed for projects that do not require a full environmental impact assessment. These are called "Category B" projects. An environmental analysis may contain the following information: (a) identification and summary of all anticipated significant adverse environmental impacts; (b) a description of and the technical details for each mitigation measure; (c) institutional arrangements; (d) implementation schedule for mitigation plan; (e) monitoring and reporting procedures; (f) integration of mitigation plan into total project cost.

In *IDA financed "Category B" projects*, if the environmental analysis results in a separate report, *the report must be made available in the borrowing country at a public place before the Bank proceeds with appraisal.* After it is released in the borrower country and sent to the Bank, it should be made available in the Public Information Center. If the environmental analysis does not result in a separate document, the analysis will be included in the Project Information Document, which should be available from the Public Information Center.

For *IBRD "Category B" projects*, the environmental analyses will be included in the Project Information Document.

3. Resettlement Plans

Resettlement plans contain detailed information about the resettlement of people who are being displaced as a result of a project. Resettlement plans will be included in the environmental impact assessments for "Category A" projects and for the environmental analyses for "Category B" projects.

Resettlement plans normally contain the following information: (a) recent information about the scale and impact of resettlement on the displaced population; (b) a description of household characteristics and a socioeconomic survey that describes the magnitude of displacement; (c) the resource base of the affected population; (d) the extent to which groups will experience loss of assets; (e) legal framework; (f) identification of resettlement sites; (g) rehabilitation package offered; (h) the value of lost assets; (i) a review of the land tenure and acquisition process; (j) grievance procedures; (k) infrastructure and social services offered; and (l) an implementation schedule.

4. Indigenous Peoples Development Plans

Indigenous People's Development Plans should be available as part of the environmental assessments in "Category A" projects, and in environmental analyses in "Category B" projects.

Indigenous Peoples Development Plans may contain the following information: (a) legal framework; (b) baseline data; (c) land tenure issues; (d) strategy for local participation; (e) identification of development or mitigation activities; (f) institutional capacity; (g) implementation schedule; (h) monitoring and evaluation; and (i) cost estimates and financing plan.

5. Environmental Data Sheets

Environmental Data Sheets are one page papers that normally contain the following information: (a) major project components; (b) major and minor environmental issues; (c) proposed actions; (d) justification for environmental category; (e) appraisal and board date; and (f) total project cost. Environmental Data Sheets are completed for all "Category A" projects.

They are available at the Public Information Center, the London, Paris and Tokyo offices, and on Internet.

6. National Environmental Action Plans
*Effective Date:* January 1, 1994

National Environmental Action Plans (NEAPs) provide an overview of a government's environmental priorities and programs. The World Bank information policy encourages borrower governments to make NEAPs publicly available. With government consent, the Bank should make NEAPs available in the Public Information Center. The list of NEAPs that are available is on Internet.

D. Legal Opinions
*Effective Date:* January 1, 1994

Certain World Bank legal opinions that are prepared for the Board of Executive Directors will be made available if the Board decides to release them. Release of legal opinions will be done on a case-by-case basis. NGOs interested in obtaining a legal opinion should request the opinion from the World Bank General Counsel. Requests should also be copied to the Executive Director who represents your country. Legal opinions are not available in the Public Information Center.

E. Country Economic and Sector Work Reports
*Effective Date:* January 1, 1994

After approval by the Board of Executive Directors, final Country Economic and Sector Work Reports should be available from the Public Information Center, branch offices, and field offices. These reports include a broad range of documents on borrower country economies and sectors. (Note: Field offices only have reports relevant to their country.) Documents available under this title include:

1. Country Economic Memoranda
2. Country Sector Reports
3. Poverty Assessments
4. Private Sector Assessments
5. Public Expenditure Reports

F. Sector Policy Papers

Sector policy papers outline Bank policy in specific areas such as resettlement or forestry. Draft sector policy papers that are in process may be released before a Board Seminar[5] by either Bank staff or by Executive Directors to interested individuals or groups for comment. However, the *final draft policy paper submitted to Executive Directors for approval may not be released.* The rules of procedure for meetings of Executive Directors prohibit documents that are sent to the Board for consideration from being publicly released prior to the meeting. These rules were implemented to protect the decision-making process of the Board.

Although technically only those sector policy papers *approved by the Board after January 1, 1994* are publicly available through the Public Information Center, we strongly urge individuals and organizations that need a sector policy paper (or any information not necessarily covered under the information policy) to request the information in hopes that in the new spirit of openness this information may be provided.

G. Information on Global Environment Facility Projects
*Effective Date:* All GEF Documents issued after October 1, 1993

Global Environment Facility (GEF) Documents that will be publicly available include:

1. Documents for projects that are Bank financed or co-financed from GEF Trust Funds
2. Montreal Protocol Projects
3. Projects financed through Ozone Projects Trust Fund

NOTE: The other implementing agencies under the GEF — the United Nations Development Program (UNDP) and the United Nations Environment Program (UNEP) — have their own information disclosure policies[6].

1. Project Information Documents

Project Information Documents will be prepared for all GEF projects, and should be available in the Public Information Center and on Internet. The GEF Project Information Document should contain a factual summary of the key elements of the evolving project and the environmental issues and concerns.

2. GEF Participants' Meeting Documents

When a GEF project is part of a GEF Participants' Review, the documents listed below will be made available in the participants'meeting. The same documents will also be made available to the Bank's Executive Directors, recipient countries, development institutions, and NGOs, and will be available in the Public Information Center, and in the London, Paris and Tokyo offices:

1. A reference sheet outlining project selection criteria and reviewers' opinions
2. A summary of the status of the projects previously reviewed by participants in earlier meetings
3. Financial reports
4. Implementation Committee meeting minutes for the program under consideration
5. An NGO statement to the participants.

After the participants' meeting, updates to the GEF Project Information Document and technical annexes to the Memorandum of the Director should also be available in the Public Information Center.

3. Memorandum of the Director

After a GEF project is approved, the final Memorandum of the Director together with the technical annexes should become available in the Public Information Center.

4. Evaluation Reports

The Annual Project Implementation Performance Report on GEF projects, and the GEF Project Evaluation Report should be available in the Public Information Center.

## REQUESTING INFORMATION FROM THE WORLD BANK

### A. Tips on Requesting Information

**Know What You Are Asking For.** When requesting information from the World Bank, it is to your advantage to know exactly what you are asking for. Be as specific as possible. Give the names and dates and relevant country of all documents you are requesting. *Remember that the Public Information Center does not take blanket requests for information; it only takes requests for specific documents.* For more information on specific documents, see section II above, or refer to the Document Glossary in Appendix IX.

**Information Requests Should Be In Writing.** Even if you are visiting the Public Information Center, a branch office or a World Bank field office in your country, it is to your advantage to make your requests in writing. This will help create a "paper trail" that you can use if your requests are denied. You may also send copies of your information requests to the Bank Information Center.

**Ask For A Written Explanation.** Remember that the Bank's policy states there is a presumption in favor of disclosure in the absence of a compelling reason not to disclose. If your information request is denied, ask for a written explanation of why the request was denied and identification of the compelling reason used to justify the rejection.

**Retroactivity.** The policy is not retroactive. This means it does not apply to projects that were negotiated or approved before the new policy came into effect. Check the date the project was approved. If the approval date was before October 1, 1993, the documents will not be in the Public

Information Center. However, don't be discouraged from requesting documents on older, ongoing projects. You may still be able to get them through the country office. (See section III.D below on how to request older documents that are not available in the Public Information Center).

Be Persistent. When requesting information that is not available in the Public Information Center or other World Bank field offices and is handled on a case-by-case basis, you must be persistent. If you don't receive a response to an information request, send another request or a follow up letter. You may also want to copy your second request to the Country Director or Regional Vice-president. You can also alert the Bank Information Center if you are having problems getting information.

### B. Public Information Center

On January 1, 1993, The World Bank established a Public Information Center (PIC) at its headquarters in Washington, DC. The PIC handles requests for World Bank documents available under the new information disclosure policy. Check the World Bank Bookstore for other World Bank publications.

The PIC has documents available in hard copy. It is open Monday through Friday from 10:00 a.m. to 4:00 p.m. (U.S. eastern standard time). Requests for information can be made in person, or by mail, email, phone or fax.

The street address of the Public Information Center is:

1776 G Street, NW (entrance on 18th Street)
Room GC1-300
Washington, DC

The mailing address is:
Public Information Center
The World Bank
1818 H St. NW
Washington, DC 20433
USA

E-mail: pic@worldbank.org
Telephone: 202-458-7334
Fax: 202-522-1500

Requests for information from the Public Information Center can be made through the World Bank's offices in Tokyo, London, and Paris, and any of the field offices in Bank borrowing countries (see appendix VIII for list of field offices).

The Public Information Center provides documents to field offices that are relevant to that country. Policy papers are also provided to field offices.

Charges For Information. Except for Project Information Documents, Environmental Data Sheets, and Precis, which are free of charge, all other documents from the Public Information Center carry a US $15.00 per document charge. The Public Information Center takes Visa, Mastercard, checks or money orders, but not cash.

Nationals of a country may obtain documents pertaining to their own country free of charge from their field office, or from the PIC if a field office does not exist in their country. Field offices may not immediately have all the information available from the PIC; information services in the field offices will be set up gradually.

**WORLD BANK DOCUMENTS AVAILABLE ON INTERNET**

1. Project Information Documents
2. Environmental Data Sheets
3. Project Evaluation Summaries (Precis)

Using the World Bank's Public Information Center on Internet, you can also access lists of documents that are currently available at the Public Information Center.

HOW TO ACCESS INTERNET

1) If you are using NCSA Mosaic or other World Wide Web navigation tools, the universal resource locator to access the PIC is: HTTP://www.worldbank.org//

2) If you are using a Gopher tool, the host name for the PIC is:gopher.worldbank.org1.

C. Other World Bank Offices With Public Information

Paris Office
66 Avenue d'lena
75116 Paris
France
Telephone: 33-1-40-69-30-12
fax: 33-1-40—69-30-69

London Office
New Zealand House
15th Floor
Haymarket
London SW1 Y4TE
England
Telephone: 44-71-930-8511
fax: 44-71-930-8515

Tokyo Office:
Kokusai Building
1-1, Marunouchi 3-chome
Chiyoda-ku, Tokyo 100, Japan
Telephone: 81-3-32144-5001
Fax: 81-3-3214-3657

D. Requesting Documents That Are Not Available From The Public Information Center, Branch Offices or Field Offices

1. Documents For Projects or Programs Not Covered Under the New Policy

Since the information policy is not retroactive, documents for projects or programs that were approved before the new policy came into effect will not be available in the Public Information Center. All requests for these documents will be handled on a case-by-case basis in the context of the policy that was in effect at the time the document was either approved by the Bank (in the case of Bank generated documents) or received from a borrower government (in the case of country generated documents)[8].

Following is a list of documents and where to go to request them:

1. Requests for Staff Appraisal Reports and other project documents not covered under the new policy should be made directly to the task manager or the country director.

2. Requests for country economic and sector work reports and environmental reports not covered under the new policy should be made to the relevant country director.

3. Requests for GEF documents produced before October 1, 1993 should be made to the Global Environment Coordinator Division.

4. Requests for legal opinions should be made to the World Bank's Vice President and General Counsel.

5. Requests for loan and credit agreements should be made directly to the relevant country director.

6. Requests for old summaries of project evaluations (Precis) should be made to the Director General of the Operations Evaluation Department (DGO).

7. Requests for Operational Manual Statements issued before March 1989 should be made to the Director of Operations Policy.

## REVIEW OF THE INFORMATION POLICY

The new information policy will be reviewed by the Executive Directors and Bank management in January 1995. During 1994, NGOs who encountered problems when requesting information from the Bank should notify the Bank. Interested NGOs should try to influence the review process by requesting copies of the review document and sending comments to the Executive Director representing their country.

# *The World Bank Policy on Disclosure of Information*

*March 1994*

*The World Bank*
*Washington, D.C.*

# Foreword

The sharing of information is essential for effective and sustainable development: it stimulates debate and broadens understanding of development issues, and it facilitates coordination among the many parties involved in development. It serves to strengthen public support for efforts to improve the lives of people in developing countries. The World Bank's experience clearly indicates that the quality of many operations benefits when staff and government officials consult and share information with participants in development programs.

In 1993, the Bank undertook a major review of its disclosure policy to increase further the information made publicly available. Under the revised policy, the range of documents released is expanded significantly, and public access to those documents is made easier. The Bank has established a Public Information Center through which much of the material covered by the revised policy is available.

The expanded access to information will strengthen the Bank's links with all its partners in the development community—and make an important contribution to our joint efforts to reduce poverty and promote sustainable development.

Lewis T. Preston
President

January 1994

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# I. Purpose

1. This statement sets out the policy of the World Bank[1] on disclosure of information held by it and describes the materials available to the public. It supersedes the Directive on Disclosure of Information dated July 1989. The policy is effective immediately. Individual provisions of the policy, respecting particular categories of documents, take effect on the dates indicated.[2]

2. The Bank's disclosure policy is set out in Part II of this statement. Part III describes the Bank's Public Information Center. Part IV indicates the categories of documents and data available to the public generally or to interested individuals or groups. Part V indicates the constraints that, while kept to a minimum, preclude external dissemination of some information.

1. In this policy statement, "World Bank" or "Bank" means the IBRD and IDA. The policy also applies to the disclosure of documents prepared for projects financed or co-financed from trust funds under the Global Environment Facility (GEF) and administered by the Bank, in particular the Global Environment Trust Fund. Except as the Bank and the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol may otherwise agree, this policy applies to operations financed through the Ozone Projects Trust Fund (OTF).
2. Requests for a document produced within the framework of earlier, more restrictive policy, or prior to the effective date of provisions related to particular categories of documents, will be addressed on a case-by-case basis in the context of the policy in effect when the document was prepared.

# II. Policy

3. The Bank recognizes and endorses the fundamental importance of accountability and transparency in the development process. Accordingly, it is the Bank's policy to be open about its activities and to welcome and seek out opportunities to explain its work to the widest possible audience.

- As a development organization, the Bank wishes to stimulate debate and broaden understanding of development, to facilitate coordination with its partners—governments and other institutions—and to help create and nurture public support for activities which promote the economic and social progress of developing countries. To the same end, it makes the results of its research available to the development and academic communities and brings the lessons of its experience to policy makers and development practitioners. Dissemination of information to local groups affected by the projects supported by the Bank, including nongovernmental organizations, particularly as it will facilitate the participation of those groups in Bank-financed projects, is essential for the effective implementation and sustainability of the projects. Experience has demonstrated that consultation and sharing of information with co-financiers, partners, and groups and individuals with specialized knowledge of development issues help to enhance the quality of Bank-financed operations.
- As an organization owned by governments, the Bank is accountable for its stewardship of public moneys and has an obligation to be responsive to the questions and concerns of its shareholders.
- As a borrower, the Bank has established that disclosure of information concerning its financial condition and policies, additional to that which it is required to publish, helps to attract purchasers to its securities.
- As an employer, the Bank aims to ensure that staff receive the information they need to carry out their responsibilities, to contribute to policy formulation and decision making, and to understand the reasons underlying its policies.

4. It follows that there is a presumption in favor of disclosure. While in the past considerable information held by the Bank has been available without restriction through a variety of Bank publications and documents, the Bank has recently further broadened the scope of information about its activities that it makes publicly available. To facilitate the acquisition of this information, the Bank has established a Public Information Center (PIC) to serve as the central contact for persons seeking to obtain Bank documents. The PIC, located at Bank headquarters, will service the public in member countries through the Internet and through Bank field offices.

# III. The Public Information Center

5. Effective January 3, 1994, publicly available information about the Bank's activities is available at the Bank's Public Information Center (PIC), 1776 G Street, N.W., Washington D.C. 20433. Requests to the PIC may also be submitted through the Internet and the Bank's European (Paris and London) and Tokyo offices and through other Bank field offices, which are listed in the appendix.

6. The PIC offers, through the Internet network, a complete set of Project Information Documents (PIDs) (see paras. 10–12) and a catalog of Bank documents available to the public. Users of the Internet worldwide may select and request the documents they need. PIDs are provided free of charge, either in electronic form or in hard copy.

7. All documents available in Washington will also be available on request through the Bank's European and Tokyo offices and through other Bank field offices. There will be a standard charge for all hard-copy documents, other than PIDs, environmental data sheets (see para. 21), and OED Precis (see para. 25).[3]

8. Field offices other than the European and Tokyo offices will have available documents specific to the country in which the office is located, and policy papers; each office will meet requests from users in that country. Users in a country without a Bank field office may obtain documents on that country directly from the PIC. Documents on the user's country are provided free of charge; documents on other countries carry the standard charge.

9. The PIC deals only with requests for specific documents, not blanket requests for information. Its staff will direct individuals to other sources of material available to the public.

3. As of January 3, 1994, the standard charge is US$15 or the equivalent for each document. The charge may be revised from time to time.

# IV. Information Available from the Bank

## A. Operational Information

*Project Information Documents*

10. The Project Information Document (PID), a new Bank document, is designed to make project information available to interested parties while a project is still under preparation. The PID provides a brief (initially two-page) factual summary of the main elements of the evolving project: objectives; expected or probable components; costs and financing; environmental and other issues as appropriate; procurement arrangements; studies to be undertaken; prospective implementing agency and relevant points of contact. It clearly indicates that its contents are subject to change and that the components described may not be included in the final project. For sector and structural adjustment operations, which do not finance physical investments, PIDs identify the areas being examined.

11. The PID is prepared when the first review of a proposed project is held by the Country Department (review of the Initial Executive Project Summary (IEPS))[4] and is updated and expanded periodically as project preparation proceeds. In all cases, it is revised before formal project appraisal; if changes are made after appraisal, a final revision of the PID is prepared. All PIDs are available through the PIC.

12. Should an interested party request more technical information about a project on which the Bank is working, the Country Department Director responsible may release factual technical documents, or parts thereof, after consultation with the government concerned.

4. For each new project that reaches the IEPS stage after October 1, 1993. For projects financed or co-financed from trust funds under the GEF and for projects financed through the OTF, a GEF-PID is produced for each project submitted to the GEF Implementation Committee after October 1, 1993.

*Staff Appraisal Reports*

13. Once a project has been approved by the Executive Directors, the Staff Appraisal Report (SAR) is available to the public.[5] Summary documentation on any subsequent substantial change to a project approved by the Board is also made publicly available after Board approval, subject to the qualification in the following paragraph.

14. During negotiations the prospective borrowing government is asked to identify any text or data in the SAR that is confidential or sensitive or could adversely affect relations with the Bank. As appropriate, adjustments would be made to deal with matters of concern. If, in exceptional cases, extensive issues of confidentiality arise, the Country Director concerned may restrict release of the SAR. The cover of any such SAR will carry a note stating that release is restricted.

*Country Economic and Sector Work*

15. Following consultation with the government concerned, country economic and sector work (CESW) reports are publicly available once they are distributed to the Executive Directors.[6] These reports include country economic memoranda, country sector reports and country reports such as poverty assessments, private sector assessments, and public expenditure documents.

16. Prior to the final review of a draft CESW report with the government concerned, the government is asked to identify any confidential information in the report. These comments are taken into account in preparing the final report for distribution to the Executive Directors and the PIC. In exceptional cases, if extensive issues of confidentiality arise, exceptions to the policy of public release may be authorized, on a case-by-case basis, by the Country Director responsible. The cover of such a report carries a note indicating that release is restricted.

*Sectoral Policy Papers*

17. Sectoral policy papers are publicly available through the PIC following their approval by the Executive Directors.[7]

18. Prior to submission of sectoral policy papers to the Board, Bank staff may consult as appropriate with institutions and individuals out-

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5. Effective with respect to SARs on projects for which the invitation to negotiate was issued after October 1, 1993.
6. Effective January 1, 1994.
7. Effective for all such papers approved by the Board after January 1, 1994.

side the Bank with specialized knowledge of specific issues and may share drafts with them.

*Other Documentation*

19. Other publicly available sources of information about a country's economic situation and projects include the Bank's Annual Report, the Bank's International Business Opportunities Service, and the Monthly Operational Summary.

20. Reports prepared by the Bank and presented at consultative group meetings are, with the concurrence of the government concerned, publicly available after the meeting.

## B. Environment-Related Documents[8]

*Environmental Data Sheets*

21. The environmental data sheets[9] prepared and updated quarterly for each project in the Bank lending program are publicly available through the PIC.

*Environmental Assessments*

22. Once the environmental assessment of a "Category A" project,[10] prepared by the borrower (and, accordingly, the borrower's property), has become publicly available in the borrowing country and has been

8. For information on other Bank documents that contain environmental information, see also Section C, Evaluation Reports.

9. An environmental data sheet briefly describes the major environmental issues identified or suspected in the project and issues of lesser scope. In addition, the environmental data sheet notes the actions proposed to mitigate adverse impact.

10. A project that is likely to have significant adverse impacts that may be sensitive, irreversible, or diverse. Public availability of the environmental assessment in the borrowing country and its submission to the Bank is a prerequisite to project appraisal. Environmental assessments and environmental analyses incorporate, wherever relevant, resettlement plans and indigenous peoples development plans.

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officially received by the Bank, it will be made publicly available through the PIC.[11]

*Environmental Analyses*

23. The environmental analysis of a "Category B" project,[12] whether it is a separate document or is contained in a relevant section of the SAR, is attached as an annex to the PID and is publicly available through the PIC.[13]

*Environmental Action Plans*

24. Environmental action plans (EAPs) of borrower governments describe the major environmental concerns of a country, identify the principal causes of problems and formulate policies and concrete actions to deal with the problems. An EAP is publicly available through the PIC once the Bank has officially received it and has obtained the government's consent to release it.

## C. Other Project Data

*Evaluation Reports*

25. Publicly available reports include the "Annual Review of Evaluation Results" prepared by the Bank's Operations Evaluation Department; for selected projects, summaries of evaluation reports ("Precis"); and all Global Environment Facility (GEF) evaluation reports and the annual Project Implementation Performance Report on GEF projects.

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11. Unless, in exceptional cases, the borrower objects. Effective January 1, 1994 for IBRD-financed "Category A" projects. Environmental assessments for IDA-funded "Category A" projects have been publicly available since July 1, 1993.
12. Compared with a "Category A" project, a "Category B" project is one in which the adverse environmental impacts are less significant: few, if any, are irreversible; they are not as sensitive, numerous, or diverse; remedial measures can be more easily designed.
13. Unless, in exceptional cases, the borrower objects to the release of an environmental analysis contained in a separate document of the borrower. Effective January 1, 1994. Environmental analyses of IDA-funded "Category B" projects have been publicly available since July 1, 1993. Public availability in the borrowing country and official receipt by the Bank are prerequisites to appraisal of these projects.

*Procurement Opportunities*

26. Information on procurement opportunities is available through the PID, the Monthly Operational Summary, the Bank's International Business Opportunities Service, and the Technical Data Sheet issued after Board approval of a project, which describes in some detail the items to be financed under the project. A United Nations publication, *Development Business*, publishes for each Bank-financed project general procurement notices for goods and works to be procured through international competitive bidding as well as services.

*Contract Awards*

27. Information on major contract awards (a description of the contract, the name and nationality of the successful bidder, and the contract price) may be disclosed after the borrower has informed the Bank that the contract has been signed. Major contract award decisions are published in *Development Business* and in the International Business Opportunities Service.

## D. Bank Financial Information

28. Financial statements of the Bank are published quarterly. Audited financial statements as of the June 30 fiscal year-end appear in the Annual Report. Unaudited statements as of end December or the June 30 audited statements are included in the semi-annual update of the Bank's Information Statement (prospectus). The statements include a balance sheet; statements of income, changes in retained earnings and of cash flows; the amounts of paid in and callable capital; and for the December and June 30 financials, statements of changes in cumulative translation adjustment and of member subscriptions to capital stock and voting power, as well as tables showing data on currencies payable on loans outstanding, on the maturity structure of loans, and on borrowings (by maturity and currency). Notes to the financial statements include information on accounting and related financial policies and a summary description of the Staff Retirement Plan. The over-all borrowing plan is usually announced publicly at the beginning of the fiscal year (July 1).

29. Other financial data published in the Annual Report or the Information Statement include the average cost of borrowings, average interest rate on loans, return on liquid investments and on loans, aggregate information on consents by member states for release of local currency capital funds for lending, and aggregate information on private placements with member countries' monetary authorities. Other documents related to public offerings are released when the laws or regulations

governing the market require that they be filed with a governmental agency.

30. Detailed statements of all loans and credits are published monthly and are available through the PIC.

31. Information on the finances of IDA is published in the IDA audited annual and unaudited quarterly financial statements. Replenishment terms and conditions are published in the Summary Proceedings of Annual Meetings. Information on current replenishment negotiations is provided in press briefings at key stages of the process.

32. Estimates of future borrowings are made available to the Bank's underwriters.

## E. Economics and Research

*Economic and Social Data*

33. Economic and social data on member countries are published in the Annual Report and in the World Development Report and its Annex. They include basic population and income data, data on consumption and investment, and data on flows of public external capital and debt and debt-service ratios. Regional and global aggregates of country economic data and primary commodity trade statistics and historical commodity price series are publicly available.

*Economic Analysis and Reports*

34. Economic analysis supporting a research project which is factual in nature and does not relate directly to the Bank's decision-making process may be made available to interested parties.

*Research*

35. The Annual Index of Publications and the bimonthly Publications Update, issued by the Office of the Publisher, list the Bank's published research output, which takes a variety of forms.

*External Debt Data*

36. Data processed by the Debt and International Finance Division are publicly available in the standard World Debt Tables (WDT) format following publication of the WDT. These tables consist of aggregate data on public and publicly guaranteed medium- and long-term debt and medium-term private nonguaranteed debt (when reported by the member country). Data elements include outstanding debt, undisbursed

amounts, commitments, disbursements, principal and interest repayments, and average terms by type of credit.

37. Aggregate estimates of private nonguaranteed debt (other than those reported by member countries), short-term loans, and future borrowing and debt-service streams are publicly available.

## F. Administration

*Board of Governors*

38. The Annual Reports list members, Governors, and voting power. Summary Proceedings of Annual Meetings contain all speeches related to the Bank; decisions taken at the Meetings and by mail vote since the last Meetings; reports of the Executive Directors recommending decisions on such matters as capital increases and replenishments; and reports of committees, such as the Development Committee.

*Executive Directors*

39. The Annual Reports list Directors' names, the countries appointing or electing them, and their voting power. Rules for election are published in the Summary Proceedings.

40. Most important decisions of the Executive Directors are announced through press releases or at press conferences of senior Bank officials. Approvals of individual lending operations are announced through issuance of press releases and fact sheets providing summary data on the project or program.

*Management*

41. Major decisions considered by management likely to be of interest outside the Bank are announced by press releases and other means.

42. Operational Policies and Bank Procedures are publicly available on request, as are those Operational Directives issued after March 1989 that have not been superseded by Operational Policies or Bank Procedures.[14] Operational Manual Statements issued before that date may be

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14. "Operational Policies" are short statements (usually one or two pages) of policy. "Bank Procedures" spell out the required documentation and common set of procedures needed to ensure operational consistency and quality. The Bank is in the process of replacing Operational Manual Statements and Operational Directives issued prior to 1992 with the above-mentioned documents.

made available to the public, upon request, by decision of the Director, Operations Policy, in consultation with the Legal Department.

*Staff*

43. Organizational charts and descriptions of positions advertised for recruitment purposes are publicly available, as is the World Bank Group Directory, which contains organizational listings.

44. Basic employment data are included in the Annual Report. General information on the Bank's salary structure, the methodology employed in establishing salary levels, staff benefits, and similar information is publicly available. The Bank's broad objectives and strategy in recruiting, placing, redeploying, and retaining staff are available in brochures or other documents prepared specifically for publication.

*Legal Information*

45. The Articles of Agreement and By-Laws of the Bank and the Bank's agreements with the United Nations and with a number of United Nations entities are all public documents.

46. After loan and credit agreements are signed and declared effective, they are registered or filed with the United Nations and are public documents. Draft agreements prepared for negotiations may be made available to parties other than the prospective borrower where required, for example, for arranging cofinancing. Agreements between other parties in relation to a Bank-financed project are released if the parties consider them public documents or have authorized release.

47. The Annual Report of the Appeals Committee is available on request. The proceedings of the Administrative Tribunal are held in public unless exceptional circumstances require otherwise. The Tribunal's decisions are published. Documents and proceedings related to external litigation to which the Bank is a party are generally public.

48. Legal opinions prepared for the Board by the Vice President and General Counsel may be made publicly available by decision of the Board on a case-by-case basis.

# V. Constraints

49. While every effort is made to keep constraints to a minimum, the effective functioning of the Bank necessarily requires some derogation from complete openness.

50. Proceedings of the Board of Executive Directors and committees thereof are, under the Board's Rules of Procedure, confidential. Thus, unless disclosure is approved by the Board, documents prepared for the consideration or review and approval of the Executive Directors, such as President's Reports and Memoranda of the President for proposed loans and credits, and Operations Evaluation Reports, are not publicly available.

51. Some documents and information are provided to the Bank on the explicit or implied understanding that they will not be disclosed outside the Bank, or that they may not be disclosed without the consent of the source; or even, occasionally, that access within the Bank will be limited. The Bank must treat such information accordingly. A related consideration is the obligation to respect property rights over documents held by the Bank but owned by, or jointly with, other parties. The Bank, as a legal matter, does not publish such documents nor does it distribute them to the public without permission of the owner of such documents.

52. There is also a need to preserve the integrity of the deliberative process and to facilitate and safeguard the free and candid exchange of ideas between the Bank and its members. For this reason, documents that define the Bank's country strategy, analysis of country creditworthiness, supervision reports and project completion reports are not publicly available. The Bank also cooperates with various international organizations, bilateral aid agencies, and private commercial banks and institutions in the context of its operations in its member countries. In this context, documents exchanged with such entities on matters of common interest which are related to the decision-making processes of the Bank and such entities are not made available to the public.

53. The above-mentioned principle relating to the preservation of the integrity of the deliberative process also applies to the Bank's own decision-making processes. Thus, internal documents and memoranda written by staff to their colleagues, supervisors, or subordinates are considered confidential and not publicly available.

54. As an organization involved in dealings on the world's financial markets, the Bank is required to maintain sound financial management practices, including the maintenance of utmost prudence in the disclosure of financial information related to its activities. For this reason, estimates of future borrowings (which are available to the Bank's underwriters), its financial forecasts, data on individual investment decisions, and credit assessments are not publicly available.

55. The Bank's Principles of Staff Employment require the Bank to maintain appropriate safeguards to respect the personal privacy of staff members and protect the confidentiality of personal information about them. Thus, individual staff records and personal medical information, as well as proceedings of internal appeal mechanisms are not disclosed outside the Bank, except to the extent permitted by the Staff Rules.

56. Finally, external release of some information may be precluded on an ad hoc basis when, because of its content, wording, or timing, disclosure would be detrimental to the interests of the Bank, a member country, or Bank staff. Disclosure might, for example, adversely affect a Bank/country relationship because of the frankness of views expressed, or it might be premature. Information is not withheld solely because it is negative; the Bank, as an open, technically competent institution which learns from its mistakes, seeks to provide balanced information, reporting the failures or disappointments in its operations as well as the successes.

# Appendix. Field Offices of the World Bank

**Headquarters**
1818 H Street, N.W.
Washington, D.C. 20433, U.S.A.

**Albania**
Deshmoret e 4 Shkurtit, No. 34
Tirana, Albania

**Angola**
Rua Alfredo Troni (Edificio BPC)
C.P. 1331
Luanda, Angola

**Argentina**
Avenida Leandro N. Alem 628-30, Piso 12
Buenos Aires, Argentina

**Bangladesh**
3A Paribagh
G.P.O. Box 97
Dhaka 1000, Bangladesh

**Benin**
Zone Résidentielle de la Radio
B.P. 03-2112
Cotonou, Benin

**Bolivia**
Edificio BISA, Piso 9
16 de Julio 1628
Casilla 8692
La Paz, Bolivia

**Brazil**
Setor Comercial Sul
Quadra 1, Bloco H
Edifício Morro Vermelho 8 Andar
Brasília DF 70.399-900, Brazil

**Brazil** (*continued*)
Rua Visconde de Piraja
No. 351, Sala 1206,
Ipanema
Rio de Janeiro, RJ 22410-003, Brazil

Edifício SUDENE
Cidade Universitaria
Recife, PE 50.738, Brazil

**Bulgaria**
World Trade Center Sofia
36 Dragan Tsankov Boulevard
Sofia, Bulgaria

**Burkina Faso**
Immeuble BICIA (3ème étage)
B.P. 622
Ouagadougou, Burkina Faso

**Burundi**
Avenue du 18 septembre
B.P. 2637
Bujumbura, Burundi

**Cameroon**
Immeuble Kennedy
Avenue Kennedy
B.P. 1128
Yaoundé, Cameroon

**Central African Republic**
Rue des missions
B.P. 819
Bangui, C.A.R.

**Chad**
B.P. 146
N'djamena, Chad

**China**
Building 5, No. 2 Fu Cheng Lu
P.O. Box 802
Beijing 100830, China

**Colombia**
Diagonal 35, No. 5-98
Apartado Aéreo 10229
Bogota D.E., Colombia

**Congo**
Avenue Amilcar Cabral
Immeuble ARC (5ème étage)
B.P. 14536
Brazzaville, Congo

**Côte d'Ivoire**
Corner of Booker Washington and Jacques AKA Streets
Cocody
B.P. 1850
Abidjan 01, Côte d'Ivoire

**Egypt**
World Trade Center
1191 Corniche El-Nil (15th floor)
Cairo, Egypt

**Ethiopia**
Africa Avenue
Bole
P.O. Box 5515
Addis Ababa, Ethiopia

**France**
66, avenue d'Iéna
75116 Paris, France

**Ghana**
69 Eighth Avenue
Extension
Northridge Residential
Area
P.O. Box M27
Accra, Ghana

**Guinea**
Immeuble de l'Archevêché
Face Baie des Anges
B.P. 1420
Conakry, Guinea

**Guinea-Bissau**
Apartado 700
1041, Guinea-Bissau

**Hungary**
Suba Trade Center
(4th floor)
Nagymezo Utca 44
Budapest 1065, Hungary

**India**
70 Lodi Estate
P.O. Box 416
New Delhi 110003, India

**Indonesia**
Jalan Rasuna Said, Kav.
B-10 (3rd floor)
P.O. Box 324/JKT
Kuningan
Jakarta 12940, Indonesia

**Japan**
Kokusai Building, Room
916
1-1, Marunouchi 3-chome
Chiyoda-ku, Tokyo 100,
Japan

**Kazakhstan**
Almaty Liaison Office
115 Zheltokson Street
Almaty 480091,
Kazakhstan

**Kenya**
View Park Towers
Monrovia Street
P.O. Box 30577
Nairobi, Kenya

**Latvia**
Kalku Street, 15
Riga 1050, Latvia

**Madagascar**
1, rue Patrice Lumumba
B.P. 4140
Antananarivo 101,
Madagascar

**Malawi**
Development House
Capital City
P.O. Box 30557
Lilongwe 3, Malawi

**Mali**
Immeuble SOGEFIH
Quartier du Fleuve
Avenue Moussa Travele
B.P. 1864
Bamako, Mali

**Mauritania**
Villa No. 30, Ilot A
Quartier Socofim
B.P. 667
Nouakchott, Mauritania

**Mexico**
Insurgentes Sur 1971
Nivel Paseo, Locales 71 y 72
Col. Guadelupe Inn
01020 Mexico City, DF
Mexico

**Mozambique**
Avenue Kenneth Kaunda,
1224
C.P. 4053
Maputo, Mozambique

**Nepal**
Jyoti Bhawan, Kantipath
P.O. Box 798
Kathmandu, Nepal

**Nicaragua**
Edifício Malaga
Plaza Espana
Managua, Nicaragua

**Niger**
Rue des Dallols
B.P. 12402
Niamey, Niger

**Nigeria**
Plot PC-10 (1st floor)
Engineering Close, off
Idowu Taylor Street
Victoria Island
P.O. Box 127
Lagos, Nigeria

**Pakistan**
20 A
Shahrah-e-Jamhuriat
P.O. Box 1025
Islamabad, Pakistan

**Philippines**
Central Bank of the
Philippines
Multi-Storey Building,
Room 200
Roxas Boulevard
Manila, Philippines

**Poland**
Intraco I Building
(17th floor)
2 Stawki Street
00-193 Warsaw, Poland

**Romania**
Boulevard Dacia 83
Sector 2
Bucharest, Romania

**Russian Federation**
Sadovo-Kudrinskaya,
No. 3
Moscow 123242
Russian Federation

**Rwanda**
Blvd. de la Révolution
SORAS Building
B. P. 609
Kigali, Rwanda

**Saudi Arabia**
UNDP Building
King Faisal Street
P.O. Box 5900
Riyadh, Saudi Arabia
11432

**Senegal**
Immeuble SDIH
3 Place de l'Indépendance
B.P. 3296
Dakar, Senegal

**Sri Lanka**
Development Finance
Corporation of Ceylon
Building (1st floor)
73/5 Galle Road
P.O. Box 1761
Colombo 3, Sri Lanka

**Tanzania**
NIC Building (7th floor, B)
P.O. Box 2054
Dar es Salaam, Tanzania

**Thailand**
Diethelm Towers
(14th floor, Tower A)
93/1 Wireless Road
Bangkok 10330, Thailand

**Togo**
169 Boulevard du 13
janvier
Immeuble BTCI (8ème
étage)
B.P. 3915
Lomé, Togo

**Turkey**
Ataturk Bulvari 211
Gama-Guris Building, Kat 6
06683 Kavaklidere
Ankara, Turkey

**Uganda**
P.O. Box 4463
Kampala, Uganda

**Ukraine**
Shovkovychna Street, No. 26
Suites 2 and 3
Kiev 252024, Ukraine

**United Kingdom**
New Zealand House (15th floor)
Haymarket
London SW1 Y4TE, England

**United Nations**
809 United Nations Plaza 9th floor
New York, N.Y. 10017, U.S.A.

**Uzbekistan**
43 Academician Suleimanova
Tashkent, Uzbekistan

**Venezuela**
Edificio Parque Cristal
Torre Oeste Piso 15-05
Avenida Francisco de Miranda
Los Palos Grandes
Caracas, Venezuela

**Zaire**
Immeuble de la Communauté Hellénique
Boulevard du 30 juin
P.O. Box 14816
Kinshasa 1, Zaire

**Zambia**
Red Cross House (2nd floor)
Long Acres
P.O. Box 35410
Lusaka, Zambia

**Zimbabwe**
CABS Centre (11th floor)
Jason Moyo Avenue
P.O. Box 2960
Harare, Zimbabwe

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# Disclosure of Operational Information

1. This statement sets out the procedures for the implementation of policies specified in the Bank's[1] *Directive on Disclosure of Information* (Washington, D.C.: World Bank and International Finance Corporation, 1993, forthcoming)[2] (Disclosure Directive), with respect to Project Information Documents, Staff Appraisal Reports, gray cover country economic and sector work reports, sectoral policy papers, and environment-related documents.

2. The Bank's policy on disclosure of information applies also to the disclosure of documents prepared for projects financed or cofinanced from trust funds under the Global Environment Facility (GEF), including Montreal Protocol projects financed through the Ozone Projects Trust Fund. Specific procedures are set out in BP 17.50, Annex A.

## Project Information Document

3. In tandem with the Initial Executive Project Summary (IEPS) for an investment operation or the Initiating Memorandum (IM) for an adjustment operation, Bank staff prepare the Project Information Document (PID), a brief (two-page) factual summary of the main elements of the evolving project. The PID clearly indicates that its contents are subject to change and that the components described may not necessarily be included in the final project.[3] Once the PID is reviewed and approved at the country department level with the IEPS or draft IM,[4] a copy is sent to the Public Information Center (PIC), through which interested parties may obtain Bank documents.[5]

4. As an investment project develops, Bank staff update the PID[6] and send the update to the PIC, through which interested parties may obtain it. For all operations, the PID is updated before the Bank's formal project appraisal; for operations in which major changes are made after appraisal, a final revision of the PID is prepared following appraisal.

5. If an interested party requests additional technical information about a project under preparation, the country department (CD) director releases factual technical documents, or portions of such documents, after consulting with the government to identify any sections that involve confidential material or that could compromise relations between the government and the Bank.

## Staff Appraisal Reports

6. Each Invitation to Negotiate includes a statement that it is the Bank's policy to release the Staff Appraisal Report (SAR) after the Board approves the project. The Invitation to Negotiate also requests that the prospective borrower's negotiating team be prepared to indicate, during negotiations, any section of the SAR that is confidential or sensitive, or that could adversely affect relations between the Bank and the government.[7]

1. "Bank" includes IDA, and "loans" includes credits.
2. Also available as AMS 1.10, *Directive on Disclosure of Information* (forthcoming).
3. See GB 17.50 for sample PIDs.
4. For these procedures, see OD 9.00, *Processing of Investment Lending*, and Circular Op 87/06, *Guidelines for Preparing and Processing Adjustment Loans and Credits*.
5. The PIC deals only with requests for specific documents, not blanket requests for information. The PIC is described further in Annex B.
6. See GB 17.50 for a sample updated PID for an investment project.
7. Annex C contains sample language.

**Note:** This statement supersedes the Operational Memorandum *New Directive on Disclosure of Information* (9/1/93), which may be discarded. Questions may be addressed to the Senior Manager, Operations Policy Group, OPR.

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The Bank and the prospective borrower discuss these sections during negotiations. Following negotiations, Bank staff take into account the government's comments in preparing the final SAR. They incorporate into the Memorandum and Recommendation of the President any information removed from the SAR that may be of interest to the Board in its decision-making process. In exceptional cases, if extensive issues of confidentiality arise, the option of restricting the release of an appraisal report may be justified on a project-specific basis by the CD director concerned; the Regional vice president (RVP) and the Operations Policy Department (OPR) are informed. The cover of such a report carries a note indicating that release is restricted.

7. After Board approval, a copy of the SAR is transmitted, as part of the normal distribution, to the PIC, through which interested parties may obtain it. If any substantial changes to a project that is being implemented are approved by the Board,[8] Bank staff prepare and transmit to the PIC a summary document (typically two pages long) that explains the changes.

### Gray Cover Country Economic and Sector Work Reports

8. Before Bank staff conduct the final review of each green cover country economic and sector work (CESW) report[9] with the government concerned, they advise the government that the Bank's policy is to make gray cover CESW reports available at the PIC, through which interested parties may obtain them. They also ask the government to identify all confidential information in the CESW report.[10] Bank staff then review the issues raised by the government and modify the report as appropriate. Any deletions or changes in information or analysis that may be of interest to the executive directors are presented in a covering note to the gray cover report. In exceptional cases, if extensive issues of confidentiality arise, exceptions to the policy of releasing reports may be authorized on a case-by-case basis by the CD director responsible; the RVP and OPR are informed. The cover of such a report carries a note indicating that release is restricted.

9. A copy of the gray cover CESW report is transmitted, as part of the normal distribution, to the PIC, through which interested parties may obtain it.

### Sectoral Policy Papers

10. In preparing sectoral policy papers, Bank staff may consult with, and make drafts available to, interested individuals and groups outside the Bank. When a Board seminar is scheduled to discuss a draft policy paper, the executive directors may make the draft available to outside interested parties for review and comment. However, the final paper submitted to the executive directors for approval may not be released.[11] Sectoral policy papers approved by the Board are transmitted by the originating unit to the PIC, through which interested parties may obtain them.

### Environment-Related Documents

*Environmental Data Sheets*

11. The environmental data sheets prepared as quarterly updates in the *Monthly Operational Summary* for all projects in the IBRD/IDA lending program are transmitted to the PIC, through which interested parties may obtain them.

8. See OD 13.05, *Project Supervision*, para. 34.
9. These reports include Country Economic Memoranda, country sector reports, country reports (such as poverty and private sector assessments), and public expenditure reports.
10. Annex C contains sample language.
11. "Rules of Procedure for the Meetings of Executive Directors," Section 7.

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*Environmental Assessments*

12. For all Bank-funded Category A projects, the Bank advises the borrower in writing[12] that, in addition to other requirements set forth in OD 4.01,[13] (a) the borrower is responsible for the environmental assessment (EA); (b) before the Bank proceeds to appraisal, the EA must be made available in the borrowing country at some public place accessible to affected groups and local NGOs and must be submitted to the Bank; and (c) once the EA is released locally and officially received by the Bank, it will also be made available at the PIC. Once the EA has been released locally and officially submitted to the Bank, the CD sends a copy to the PIC, through which interested parties may obtain it. If, in an exceptional case, the government objects to broader release of the EA, staff should not continue with project processing.[14] For an IBRD project, the issue of further processing is submitted to the executive directors for consideration.

*Environmental Analyses*

13. For a Category B project, the environmental analysis[15] is summarized in an annex to the PID and documented in the SAR. If the environmental analysis for an IDA-funded Category B project results in a separate report, (a) before the Bank proceeds to appraisal, the separate report must be made available in the borrowing country at some public place accessible to affected groups and local NGOs and must be submitted to the Bank; and (b) once the separate report is released locally and officially received by the Bank, it is sent to the PIC, through which interested parties may obtain it.

*Environmental Action Plans*

14. Bank staff encourage governments to make their environmental action plans (EAPs)[16] available to the public. Once the Bank has officially received the EAP and has obtained the government's consent, the country department transmits a copy of the EAP to the PIC, through which interested parties may obtain it.

**Effectiveness**

15. These procedures take effect on the dates shown in BP 17.50, Annex D.[17] Requests for SARs, CESW and environment-related reports, and sectoral policy papers produced before those dates are handled individually by the responsible director in consultation with the government concerned, under the policy in force at the time the documents were approved by the Bank or officially received from a government.

**Other Documents**

16. Procedures governing the release of any documents not referred to in this statement are provided for in the Disclosure Directive.

12. Annex C contains sample language.
13. See OD 4.01, *Environmental Assessment*.
14. This provision for IDA projects reflects para. 21 of *Addition to IDA Resources: Tenth Replenishment*, approved by the Board on January 12, 1993, and adopted by the IDA Board of Governors (Resolution No. 174, March 31, 1993).
15. See OD 4.01, *Environmental Assessment*.
16. See OD 4.02, *Environmental Action Plans*.
17. Annex D also sets out arrangements for handling requests before the PIC begins operation.

*These procedures were prepared for the guidance of World Bank staff. They are not necessarily a complete treatment of the subjects covered.*

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# Application of the Bank's Disclosure Policy to Projects under the Global Environment Facility

1. The States participating (the Participants) in the Global Environment Facility (GEF) have indicated that activities under the GEF should be carried out in a transparent manner, with full information available promptly. As the trustee of the Global Environment Trust Fund and as an implementing agency of the GEF, the Bank is accountable to the Participants, and its policy of openness about projects and other GEF-related activity is consistent with their wishes. This annex sets out how the Bank's policy on and procedures for disclosing operational information[1] apply to projects financed or cofinanced from GEF trust funds, including Montreal Protocol projects financed through the Ozone Projects Trust Fund.[2]

## Disclosure and the Project Cycle

2. A GEF Project Information Document (GEF-PID) is prepared for projects financed or cofinanced from GEF trust funds. The GEF-PID, a factual summary of the main elements of the evolving project, gives particular attention to the environmental issues and concerns the project will address.[3] The GEF-PID serves both as the Bank's decision-making document for GEF-funded projects and as the information document that interested parties may obtain through the Bank's Public Information Center (PIC).[4]

3. When the GEF Implementation Committee includes a project in a work program for the GEF Participants' review, it provides the following documentation for the Participants' meeting: the GEF-PID, with the associated reference sheet of project selection criteria and reviewers' opinions; and the Report of the GEF Chairman, which includes (a) a summary of the status of the projects in each work program reviewed by the Participants at earlier meetings, (b) minutes of the Implementation Committee meeting for the work program under consideration, (c) financial reports, and (d) a statement by nongovernmental organizations (NGOs) to the Participants. All the documents for the Participants' meeting are made available to the Bank's executive directors, recipient countries, other development institutions, and NGOs. The Bank also sends these documents to the PIC, through which interested parties may obtain them.

4. Following the Participants' meeting, any updates to the GEF-PID and any technical annexes to the Memorandum of the Director (MOD) are sent to the PIC, through which interested parties may obtain them.

5. The Invitation to Negotiate includes a statement that it is the Bank's policy to release the MOD after the project is approved. The Invitation to Negotiate also requests that the prospective GEF grant recipient's negotiating team be prepared to indicate, during negotiations, any section of the MOD that may be confidential or sensitive, or that could adversely affect relations

1. "Bank" includes IDA. The United Nations Development Programme (UNDP) and the United Nations Environment Programme (UNEP), which together with the Bank are the implementing agencies under the GEF, have their own policies on disclosure of information.
2. Processing of GEF projects is described in OD 9.01, *Procedures for Investment Operations under the Global Environment Facility*.
3. See GB 17.50 for a sample GEF-PID.
4. The PIC is described in BP 17.50, Annex B.

*These procedures were prepared for the guidance of World Bank staff. They are not necessarily a complete treatment of the subjects covered.*

with the prospective recipient.[5] The Bank and the prospective recipient discuss these sections during negotiations. Following negotiations, Bank staff take into account the prospective recipient's comments in preparing the final document. After approval of the GEF project, the final blue cover MOD (excluding the introductory paragraph and the paragraph pursuant to which the Regional vice president's approval is sought by the director of the country department concerned) is merged with the technical annexes and sent to the PIC, through which interested parties may obtain the document.

*Cofinanced Projects*

6. GEF-Bank cofinanced projects follow the same cycle as freestanding GEF projects, with the addition that the GEF-PID for cofinanced projects includes all relevant information on the Bank-financed aspects of the project.[6] As the GEF-funded segment of the project advances through its cycle, any significant changes in the Bank-financed part of the project are reflected in the GEF-PID and the final blue cover MOD.

*Evaluation Reports*

7. Two kinds of evaluation reports are sent to the Bank's PIC, through which interested parties may obtain them: (a) the annual Project Implementation Performance Report on GEF projects, and (b) the GEF Project Evaluation Report, which is prepared upon project completion.

**Effectiveness**

8. These procedures take effect on October 1, 1993. Requests for GEF project documents produced before that date are handled individually by the Global Environment Coordination Division.

**Other Documents**

9. Procedures for the release of any documents not referred to in this statement are provided for in *Directive on Disclosure of Information* (Washington, D.C.: World Bank and International Finance Corporation, 1993, forthcoming).

5. Annex A1 contains sample language for the Invitation to Negotiate.
6. The PID for the Bank-financed portion of the project is available separately to interested parties on request through the PIC.

These procedures were prepared for the guidance of World Bank staff. They are not necessarily a complete treatment of the subjects covered.

## Sample Notice to Prospective Recipients of Grants under the Global Environment Facility

*Paragraph for Invitation to Negotiate*

With regard to GEF projects, it is the Bank's policy to release the Memorandum of the Director (MOD) to interested parties on request through the Public Information Center after the project is approved for financing. Before releasing this report, the Bank takes into account any comments made by the prospective grant recipient. Therefore, your delegation for the forthcoming negotiations should be prepared to indicate any text or data in the MOD that may be confidential or sensitive, or that may adversely affect the relations between the Bank and the government. The Bank will review your delegation's comments during negotiations.

These procedures were prepared for the guidance of World Bank staff. They are not necessarily a complete treatment of the subjects covered.

## The Public Information Center

1. As of January 1, 1994, the Bank maintains at its headquarters a Public Information Center (PIC), which serves as the central contact for those who wish to obtain information about the Bank's activities. The public may visit the PIC (which includes a reading room); requests to the facility may also be submitted through the Bank's Paris, London, and Tokyo offices and through other field offices.

2. The PIC offers through the Internet network a complete set of Project Information Documents (PIDs) and a catalog of the Bank documents that are available to the public. Users of Internet worldwide may select and request the documents they need. PIDs are provided free of charge to users, either in electronic form or in hard copy.

3. All documents available in Washington are also available to interested parties through the Paris office. Users who request documents through the Tokyo office will be served through the PIC in Washington. The PIC provides to the other field offices only the documents specific to their country, plus policy papers. In Washington, Paris, London, and Tokyo, users pay a standard charge for all hard-copy documents (except PIDs).[1] At other field offices, documents on the country where the field office is located are provided free of charge to users in that country; documents on other countries are obtained from the PIC at the standard charge. Nationals of a country that has no field office may obtain documents on their country free of charge through the PIC; documents on other countries carry the standard charge.

4. The PIC deals only with requests for specific documents, not blanket requests for information.

5. PIC staff may direct individuals to other materials that are available to the public. They assist operational staff in handling requests for information. The Global Environment Coordination Division may also respond to requests for documents pertaining to projects financed or cofinanced from trust funds under the Global Environment Facility.

1. As of January 1, 1994, the standard charge is US$15.00, or the equivalent. This charge may be revised from time to time.

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## Sample Notices to Prospective Borrowers

*Paragraph for Invitation to Negotiate*

It is the Bank's policy to release the project's appraisal report to interested parties on request through the Public Information Center after the Board approves the project for Bank financing. Before releasing such a report, the Bank takes into account any comments made by the prospective borrower concerned. Therefore, your delegation for the forthcoming negotiations should be prepared to indicate any text or data in the appraisal report that may be confidential or sensitive, or that may adversely affect the relations between the Bank and the government. The Bank will review your delegation's comments during negotiations.

*Paragraph on Economic and Sector Work Report*

This is to advise you that the Bank's policy is to make available to interested parties on request through the Public Information Center gray cover country economic and sector reports. The gray cover version of the [*name*] report will be released after the forthcoming final review of the report. Therefore, during that review, you should identify any parts of the report that, in your view, contain confidential or sensitive information. The Bank will take your comments into account in preparing the gray cover version of the report.

*Paragraphs on Environmental Assessment or Analysis*

Category A Project

This is to advise you that [*name of project*] has been classified as Category A for purposes of environmental assessment. This is also to advise you that, in addition to other requirements specified in the Bank's OD 4.01, *Environmental Assessment*, (a) the borrower is responsible for the environmental assessment (EA); (b) before the Bank proceeds to appraisal, the EA must be made available in [*name of country*] at some public place accessible to affected groups and local NGOs and must be submitted to the Bank; and (c) once the EA is released locally and officially received by the Bank, it will also be made available at the Bank's Public Information Center.

Category B Project

This is to advise you that [*name of project*] has been classified as Category B for purposes of environmental assessment. This is also to advise you that, in addition to other requirements specified in the Bank's OD 4.01, *Environmental Assessment*, the borrower is responsible for the environmental analysis. The environmental analysis is summarized in the Project Information Document, which is made available to interested parties. For an IDA-funded project, if the analysis results in a separate report, (a) before the Bank proceeds to appraisal, the separate report must be made available in [*name of country*] at some public place accessible to affected groups and local NGOs and must be submitted to the Bank; and (b) once the separate environmental analysis is released locally and officially received by the Bank, it will also be made available at the Bank's Public Information Center.

## Disclosure Policy: Effectiveness and Interim Arrangements

1. The Bank's expanded policy on disclosure of information was approved on August 26, 1993. The individual provisions of the policy will take effect according to the following schedule:

(a) A Project Information Document (PID) will be produced at the same time as the Initial Executive Project Summary (IEPS) for each new project that reaches the IEPS stage after October 1, 1993. For the remainder of the portfolio not yet approved (i.e., projects beyond the IEPS stage but not presented to the Board), a PID will be completed by January 1, 1994. For projects financed or cofinanced from trust funds under the Global Environment Facility (GEF), a GEF-PID will be produced for each project submitted to the GEF Implementation Committee after October 1, 1993.

(b) Consultation with the government on, and subsequent release of, Staff Appraisal Reports (SARs) and (for GEF projects) Memoranda of the Director (MODs) will take place for all projects for which Invitations to Negotiate are issued after October 1, 1993.

(c) Release of country economic and sector work (CESW) reports (following consultation with the government) will take place for all such reports that go to gray cover after January 1, 1994.

(d) Release of sectoral policy papers will take place for all such papers approved by the Board after January 1, 1994.

(e) Environmental assessments for IDA-funded Category A projects and environmental analyses for IDA-funded Category B projects (when there are separate reports) have been made available to the public since July 1, 1993. The expansion of the disclosure policy for environment-related documents to cover all Bank-financed projects will take effect on January 1, 1994.

2. The Public Information Center will be open to the public from January 1, 1994. In the interim, requests for documents will be handled as follows:

(a) The Internal Documents Unit will handle requests for printed copies of PIDs, GEF-PIDs, and MODs.

(b) Country departments will handle requests for SARs and gray cover CESW reports; when the requests are approved, the Internal Documents Unit will provide printed copies.

(c) Requests for sectoral policy papers will be handled by the responsible department director in the central vice presidential units.

(d) The Environment Department will handle requests for environment-related documents.

*These procedures were prepared for the guidance of World Bank staff. They are not necessarily a complete treatment of the subjects covered.*

THE WORLD BANK/IFC/MIGA File with BP 17.50

# OFFICE MEMORANDUM

DATE: November 24, 1993

TO: Staff Recipients of the Operational Manual

FROM: Jan Wijnand, Acting Director, OPR

EXTENSION: 36691/39526

SUBJECT: BP 17.50, *Disclosure of Operational Information*

1. In view of the importance of adhering to the Bank's disclosure policy, we are keeping the procedures set out in BP 17.50 under continuous review. I draw your attention to the following changes in the procedures set out in BP 17.50.

2. Length of the Project Information Document. In response to staff suggestions, we have decided to relax the BP's limits on the length of the Project Information Document (PID). The two-page specification should be treated as a minimum; the PID may expand as project information grows during the processing of the project. The PID may reflect the EPS in its entirety, except for any confidential or sensitive material that could (a) jeopardize relations between the Bank and the government, or (b) adversely affect the integrity of the Bank's internal decision-making process.

3. Environment-Related Documents. Staff should note that for a Category B project, the environmental analysis is attached (not summarized in an annex) to the PID. For technical reasons, borrower-produced documents will not be made available on Internet, hence environmental assessments, separate environmental analyses, and environmental action plans will be available only in hard copy.

4. Resettlement Plans and Indigenous Peoples Development Plans. I would like to remind staff that in accordance with OD 4.01 Annex A, *Checklist of Potential Issues for an EA*, environmental assessments and environmental analyses should, whenever relevant, incorporate resettlement plans and indigenous peoples development plans.

5. These modifications to the Bank's disclosure procedures will be incorporated into BP 17.50, *Disclosure of Operational Information*, when it is revised and reissued.

cc: Messrs./Mmes. Karaosmanoglu, Sandstrom, Stern, Fox, Kalantzopoulos (EXC); Bruno (DECVP); Choksi (HROVP); Eccles (CTRVP); Einhorn (TREVP); Linn (FPRVP); Husain (LACVP); Koch-Weser (MNAVP); Jaycox (AFRVP); Kaji (EAPVP); Kashiwaya (CFSVP); Messenger (PAAVP); Picciotto (DGO); Rajagopalan (EXCPM); Rischard (FPDVP); Serageldin (ESDVP); Shihata (LEGVP); Thahane (SECGE); Thalwitz (ECAVP); Wood (SASVP); El-Ashry, Lausche (ENVDR); Rigo, Meigher, Abbott (LEG); Adams, Datta-Mitra (OPRPG)

Directives Manager's Files

APPENDIX V

THE WORLD BANK/IFC/MIGA

File with ODs 8.40 and 8.50 and BP 17.50

# OFFICE MEMORANDUM

DATE: June 20, 1994

TO: Staff Recipients of the Operational Manual

FROM: Jan Wijnand, Acting Director, OPR

EXTENSION: 81490

SUBJECT: Disclosure of Factual Technical Documents

1. The Bank has recently received several external requests for technical information on projects that have not yet been approved by the Board. It has also received requests for information contained in the Memorandum and Recommendation of the President (MOP), a document that under *The World Bank Policy on Disclosure of Information*[1] (the Disclosure Policy) is not available to the public.[2]

2. The Disclosure Policy provides for three types of project documentation[3] to be disclosed *prior to Board approval*: (a) the Project Information Document (PID); (b) environment-related documents—environmental data sheets, assessments (EAs), and analyses[4]—and (c) factual technical documents.[5] PIDs and environment-related documents are released through the Public Information Center (PIC) according to procedures set out in BP 17.50, *Disclosure of Operational Information*. The purpose of this memorandum is to clarify the procedures for disclosure of factual technical documents and address the issue of the release of information about projects that do not have Staff Appraisal Reports (SARs).

*Factual Technical Documents*

3. The term *factual technical documents* refers principally to project-related technical information gathered or received by the Bank from agencies or consultants associated with the project, the borrower, or the government of the country concerned. The following are examples

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1. Washington, D.C.: World Bank, March 1994.

2. Like the MOP (which is used for investment projects), the President's Report for adjustment operations is also not made available to the public. See Disclosure Policy, para. 50.

3. Executive Project Summaries (EPSs), whether in initial (IEPS), intermediate (EPS), or final (FEPS) stages, are not made available to external users. See Disclosure Policy, para. 53.

4. Borrower governments' Environmental Action Plans (EAPs) are also available to the public through the Public Information Center once the Bank has officially received them and has obtained the governments' consent for release. EAs and environmental analyses incorporate, whenever relevant, resettlement plans and indigenous peoples development plans.

5. Para. 12 of the Disclosure Policy states:
   > Should an interested party request more technical information about a project on which the Bank is working, the Country Department Director responsible may release factual technical documents, or parts thereof, after consultation with the government concerned.

of factual technical documents that may be made available to the public (according to the procedures outlined in this memorandum):

- prefeasibility studies
- feasibility studies, including cost-benefit analyses
- site and soil investigations
- detailed design studies
- financial statements of executing agencies for past fiscal years
- descriptive material on the institutional framework
- technical studies underlying environmental impact analyses
- project-related poverty analyses

Given the Bank's limited experience with the disclosure of factual technical documents, staff may consider this list as indicative. It is important to bear in mind that the Bank has a presumption in favor of disclosure; thus the only factual technical documents the Bank does not release are those that (a) involve confidential material or material that could compromise government/Bank interactions, or (b) are directly related to internal Bank decision making. If in doubt, staff may consult with OPRPG.

4. Our response to requests for specific project-related documents of the types listed in para. 3 depends on their source and nature (e.g., who owns them and whether they have already been made available to the public by the government concerned):

(a) Technical documents already made publicly available by the government of the country concerned are disclosed without further consultation with the government.

(b) Technical documents (or any parts of such documents) that are prepared by project/borrower/government agencies or their consultants and are not made publicly available by the government of the country concerned may be disclosed by the country department (CD) director after consultation with the country official responsible for Bank/country relations. Together, they identify any text or data that are confidential or sensitive or that could adversely affect relations with the Bank. Before releasing the technical documents or parts thereof the CD director makes any adjustments necessary to deal with matters of concern. In exceptional cases, if extensive issues of confidentiality arise, exceptions to the policy of public release may be authorized by the CD director for specific technical documents.

(c) Technical documents prepared by Bank staff using material provided by the government may be disclosed by the CD director after consultation with the country official responsible for Bank/country relations. Together, they identify any text or data that are confidential or sensitive or that could adversely affect relations with the Bank. Before releasing the technical documents or parts thereof, the CD director makes any adjustments necessary to deal with matters of concern. In exceptional cases, if extensive issues of confidentiality arise, exceptions to the policy of public release may be authorized by the CD director for specific technical documents.

*Procedures*

5. Most external requests have been individual requests for specific project-related technical information or for technical documents of the types listed in para. 3. Country department staff

who receive such requests may release such documents (or parts of the documents) through the PIC, after consulting the government concerned as described in para. 4 (b) and (c). All such documents sent to the PIC are accompanied by a cover sheet indicating the country, the project name and number, and the names of the task manager and a back-up staff member on the project team.

6. However, there have been a substantial number of blanket requests for project-related technical information on a few specific projects. Since the quantity of factual technical documents in these projects may be large, experience has shown that it is appropriate for country departments to take the following steps upon receiving such requests:

(a) Staff prepare a list of the existing factual technical documents (or portions of documents) for a project.

(b) Staff consult with the country official concerned to identify, from the list, the documents belonging to categories (b) and (c) in para. 4 that can be released, in whole or in part, to outside parties.

(c) The country department makes available to the PIC the list and the documents (or parts of documents) available for release. The documents are accompanied by a cover sheet as described in para. 5.

(d) Outside parties that request technical information on the project are referred to the PIC or the relevant resident mission; they may consult the list and request specific documents.

(e) PIC staff make these documents available to the requesting parties for consultation either at Bank headquarters or at the relevant resident mission. Users who wish to obtain copies of selected documents (or parts of documents) may photocopy the documents, at the PIC, for a fee.

*Requests for Documents Following Board Approval*

7. Under the Disclosure Policy, the MOP is not made available to the public.[6] After an investment loan is approved by the Board, the SAR is made available through the PIC according to the procedures set out in para. 14 of the Disclosure Policy.[7] For technical assistance loans (TALs) and emergency recovery loans (ERLs), which do not have SARs, the technical annexes to the MOP are no longer bound with the MOP but are instead prepared as a separate document. The prospective borrowing government is asked to identify during negotiations any portion of this technical annex that is confidential or sensitive or that could adversely affect relations with

6. See Disclosure Policy, para. 50.

7. Para. 14 of the Disclosure Policy states:
> During negotiations the prospective borrowing government is asked to identify any text or data in the SAR that is confidential or sensitive or could adversely affect relations with the Bank. As appropriate, adjustments would be made to deal with matters of concern. If, in exceptional cases, extensive issues of confidentiality arise, the Country Director concerned may restrict release of the SAR. The cover of any such SAR will carry a note stating that release is restricted.

the Bank. As appropriate, country department staff may modify this technical annex to deal with matters of concern to the government. Once the TAL/ERL is approved by the Board, when an external party requests technical information, the CD director makes the technical annex available to the interested party through the PIC. As with SARs, if in exceptional cases extensive issues of confidentiality arise, the country department director may restrict release of this technical annex.

*Role of OPR*

8. For the next six months, while we gain experience with the disclosure of factual technical information, OPRPG is available to provide advice and guidance if staff require assistance in interpreting the requirements of the Disclosure Policy. Once we have gained sufficient experience with the disclosure of factual technical information, we will revise and reissue BP 17.50, *Disclosure of Operational Information*.

cc: Messrs./Mmes. Karaosmanoglu, Sandstrom, Stern, McHugh, Kalantzopoulos (EXC); Bruno (DECVP); Burki (LACVP); Choksi (HROVP); Eccles (CTRVP); Husain (MPSVP); Jaycox (AFRVP); Kaji (EAPVP); Kashiwaya (CFSVP); Koch-Weser (MNAVP); Linn (FPRVP); Picciotto (DGO); Rischard (FPDVP); Serageldin (ESDVP); Shihata (LEGVP); Thahane (SECVP); Thalwitz (ECAVP); Wood (SASVP); Adams (o/r), Pommier, Datta-Mitra (OPR)

Directives Manager's Files

## APPENDIX VI

### SELECTED WORLD BANK OPERATIONAL DIRECTIVES

Operational Directives (ODs) are statements of Bank policies and procedures prepared for the guidance of World Bank staff. Currently, the World Bank's Operations Policy Department is revising the system of operational policies and procedures. As part of the revision, existing Operational Directives will be replaced by three categories of documents:

1. Operational Policies: a short, focused statement of policy
2. Bank Procedures: a common set of procedures for Bank Staff to observe.
3. Good Practices: advisory material for Bank staff.

A majority of the environment and social related Operational Directives have not yet been replaced. Following is a list of selected Operational Directives that are still in effect as of March 1994. To ensure accuracy, NGOs should check with the Bank before citing a specific OD.

OD 4.00, Annex B: Environmental Policy for Dam and Reservoir Projects

OD 4.00, Annex B1: Typical Environmental Effects of Dams and Reservoirs

OD 4.00, Annex B2: The Area of Influence of Dam and Reservoir Projects

OD 4.00, Annex B3: Sample Terms of Reference: Environmental Reconnaissance of Dam and Reservoir Projects

OD 4.01: Environmental Assessment

OD 4.02: Environmental Action Plans

OD 4.03: Agricultural Pest Management

OD 4.15: Poverty Reduction

OD 4.20: Indigenous Peoples

OD 4.30: Involuntary Resettlement

OD 7.50: Projects on International Waterways

OD 8.00: Project Preparation Facility

OD 9.01: Procedures for Investment Operations under the Global Environment Facility

OD 10.70: Project Monitoring and Evaluation

OD 13.05: Project Supervision

OD 13.40: Suspension of Disbursements

OD 13.50: Cancellation of Loan and Credit Amounts

OD 14.70: Involving Nongovernmental Organizations in Bank-Supported Activities

Selected New World Bank Policies or Procedures in Effect as of March 1994:

Operational Policies

OP 4.36: Forestry

OP 4.07: Water Resources Management

OP 10.21: Investment Operations Financed by the Multilateral Fund of the Montreal Protocol

Bank Procedures

BP 17.50: Disclosure of Operational Information

BP 10.21: Investment Operations Financed by the Multilateral Fund of the Montreal Protocol

# APPENDIX IX

## DOCUMENT GLOSSARY

A. Project and Sector Investment Documents

Note: Documents 1-4, 9 & 10 are not available under the current Bank policy, but are included here for information purposes.

1. **Initial Executive Project Summary (IEPS):** This is the first document generated after project identification. The task manager prepares the initial executive project summary, which is a "brief self-contained issue oriented discussion of the project's objectives, rationale and design" (OD 9.00, June 1991). As the project becomes more developed, the initial executive project summary becomes an executive project summary and eventually a final executive project summary.

2. **Executive Project Summary (EPS):** The executive project summary contains more information than the initial executive project summary and becomes more specific over time; the project's risks, costs, and benefits are quantified. This is the main decision-making document for Bank management.

Issues covered in rhe executive project summary and the final executive project summary should include the following: project description and objectives, financing plan, and tentative dates for appraisal, indication of sector importance in the broader country strategy, project financing, implementation strategy (including management arrangements), project sustainability, rationale for Bank/IDA involvement, project benefits and risks, environmental aspects, and outstanding issues such as proposed conditionality.

3. **Final Executive Project Summary (FEPS):** The final Executive Project Summary contains the same information as above and is used to prepare the memorandum of the President.

4. **Memorandum of the President (MOP):** The Memorandum of the President (MOP) evolves from the executive project summary and is used by the EDs to decide on the project or program. The MOP starts with a strategy statement that contains a review of recent country trends, objectives and priorities and economic indicators. It also reviews the Bank's assistance strategy and how the project or program is linked to macroeconomic and sector objectives.

The topics covered in the MOP are similar to those in the executive project summary. The MOP contains sections on project description and objectives, project implementation (including which agencies are responsible), rationale for Bank involvement, project benefits and risks, agreements that have been reached with the borrower government, and environmental aspects. It also contains annexes on project costs and financing, procurement issues, timetables and maps.

5. **Project Information Document (PID):** A Project Information Document is a document prepared for release to the public. It contains basic factual technical information about a project in preparation. The PID is prepared at the same time as the Initial Executive Project Summary. It should be a minimum of two pages and should be expanded as the project develops. The PID should contain a summary of the main aspects of a project including: the project's objectives, expected or probable components, costs and financing, environmental issues, status of procurement and consulting services, studies to be undertaken, implementing agencies and relevant points of contact[9].

6. **Factual Technical Documents:** Factual Technical Documents include the following types of documents or information: prefeasibility studies, feasibility studies, cost/benefit analyses, site and soil investigations, detailed design studies, financial statements of the agencies responsible for implementing the pro-

ject, a description of the institutional framework, technical studies that support the environmental impact analysis, and project-related poverty analyses.

7. **Staff Appraisal Reports:** Staff Appraisal Reports (SARs) are the main technical document of a project. SARs have four color stages:white cover, yellow cover, green cover and buff cover. Currently, only the final (buff cover) Staff Appraisal Reports are publicly available.

A white cover SAR is used for review and discussion leading up to the appraisal mission. After the appraisal mission is completed, the yellow cover SAR is written and then reviewed in a meeting with the regional vice-president. Following this meeting the SAR is revised again to incorporate decisions taken at the review meeting, and a green cover SAR is then prepared for negotiations with the borrower government.

A SAR may contain the following information: a description of the project and the sector (such as the energy or agriculture sector), the institutional structure of the sector, the legal framework, the Bank and country goals and strategy for a given sector, the rationale for Bank involvement, the project origin and the status of preparation, legal arrangements, the financing plan, financing and other agreements reached with the government, implementation and monitoring, procurement, the disbursement schedule, environmental and social aspects, the economic justification, and project risks and recommendations. SARs and their annexes often contain detailed, technical information.

8. **Loan and Credit Agreements:** Loan and credit agreements that govern a specific project or sector loan are legal agreements between the Bank and the borrowing country.

9. **Project Completion Reports:** A project completion report is an evaluation report written by the task manager after Bank financing of the project has been completed. Project completion reports are written for all Bank financed projects. These reports should be a candid assessment of the project's success or failure, and should provide an opportunity to assess the lessons learned specific to the country and sector.

10. **Project Performance Audit Report:** The project performance audit report is an evaluation report written by the Operations Evaluation Department (an independent office inside the Bank) after it receives the project completion report from the task manager. Project Performance Audit Reports are completed for all structural adjustment operations and 40% of projects and sector loans.

11. **Precis:** The precis is a summary of evaluation reports. These summaries contain information from both Project Completion Reports and Project Performance Audit Reports.

B. Environmental Documents

12. **Environmental Assessment (EA):** The EA is prepared for proposed World Bank financed "Category A" projects. The EA assesses the environmental impact of a proposed project and analyzes alternatives to the project.

According to OD 4.01, an EA should contain the following information: executive summary, project description, baseline data, environmental impacts, an analysis of alternatives, mitigation plan, environmental management and training plan, and an environmental monitoring plan.

13. **Environmental Analyses:** The environmental analysis is a document prepared for a proposed World Bank financed "Category B" project. Category B" projects may have adverse impacts that are less significant than "Category A" impacts; few of the impacts are irreversible. Environmental analyses contain a mitigation plan with the following information[10]: a summary of the significant adverse impacts, details of the mitigation measures,

institutional responsibilities, an implementation schedule, monitoring procedures, and additional costs to the project.

14. **National Environmental Action Plans:** The NEAP contains a description of the major environmental concerns of a country. It also should identify the principle causes of environmental problems, and identify concrete actions that can be taken to deal with the problems.

15. **Environmental Data Sheets:** The Environmental Data Sheet is a one page Bank generated document describing the environmental aspects of a project. It includes a description of major project components, environmental issues, proposed actions, project caregorization, justification for the categorization, and the scheduled date of the environmental assessment or analysis.

### C. Country Economic and Sector Work Reports

16. **Country Economic and Sector Reports:** These reports include country economic memoranda, and special reports in the area of public investment programs, financial sector, export policies, income distribution and labor markets[11]. Many of the reports are formal and are distributed to the Board after they are final. Once finalized the report is given a grey cover and then called "grey cover" reports. Some economic and sector reports are informal or confidential studies that do not reach the grey cover stage and are not widely circulated.

17. **Country Economic Memoranda[12]:** These reports are required for countries with active lending programs. The main purpose of the document is to inform the Board and management of economic prospects and issues in the borrowing country, and to provide a background for dialogue with the government issues. Country Economic Memoranda also provide background information and analysis to members of aid groups and other donors. They also contain a review of economic developments, a discussion of major economic policy issues, and a country's medium term prospects.

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## NOTES

1. The new policy covers projects and programs financed by the International Bank For Reconstruction and Development (IBRD) and the International Development Association (IDA). The International Finance Corporation (IFC) is not covered by the policy.

2. World Bank, "Expanding Access to Bank Information", August 31, 1993, page 1.

3 This document was issued after the August 26, 1993 Board meeting on the Information Policy and incorporates changes suggested by Executive Directors in that meeting.

4. An invitation to negotiate is when the Bank indicates to the borrower government the date it is prepared to begin loan agreement negotiations on a specific project or sector loan.

5. A Board Seminar is an informal meeting where Board members are briefed by Bank staff on draft policies or other issues.

6. The current Bank information policy on the GEF may be superseded when the future GEF Council is established. The Council will decide on both information and participation procedures for the GEF.

7. Bank Procedures, Disclosure of Operational Information, (BP 17.50), September 1993, Annex A.

8. Bank Procedures, Disclosure of Operational Information, (BP 17.50), September 1993, Page 3.

9. The World Bank, "Expanding Access to Bank Information", August 31, 1993.

10. OD 4.01 Environmental Assessment, Annex C, point 2.

11. OD 2.00 Country and Economic Sector Work, March 1989.

12. OD 2.00 Country Economic and Sector Work.

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